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HUMAN RIGHTS COUNCIL
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**Statement by Mr. Githu Muigai
Special Rapporteur on contemporary forms of racism, racial discrimination,
xenophobia and related intolerance**

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*Mr. President,
Excellencies,
Distinguished Delegates,
Ladies and Gentleman,*

It is an honour to be here with you for this interactive dialogue during which I will present two reports. Further to the request of the Human Rights Council, I will start by introducing my report on “all manifestations of defamation of religions, and in particular on the serious implications of Islamophobia, on the enjoyment of all human rights by their followers” (A/HRC/15/53).

Mr. President,

I submitted a first report on the issue at hand to the twelfth session of the Human Rights Council (A/HRC/12/38). Whereas that first report focused on the legal and conceptual questions concerning the debate on “defamation of religions” and incitement to racial or religious hatred, the report I am introducing today deals with reported cases on issues pertaining to HRC resolution 13/16. Both reports should be read together.

Excellencies,

Since submitting my first report on the topic, I have continued to receive regular information on issues pertaining to HRC resolution 13/16. One of the most recent examples was the plan of a small group of individuals in Florida to organize a “Burn a Koran Day” on 11 September 2010. I very much regret this initiative and I welcome the reactions of a wide variety of political and religious leaders opposing it. This event demonstrates that actions undertaken by a small group of persons may sometimes have worldwide repercussions. It is vital therefore to exercise caution in denouncing such acts, so as not to play into the hands of such individuals.

The cases contained in my report cover a wide range of issues and appear to fall under the following five broad and non-exhaustive categories:

- (a) Acts of violence or discrimination, or incitement thereto, against individuals on the basis of their religion or belief;
- (b) Attacks on religious sites;
- (c) Religious and ethnic profiling;
- (d) Religious symbols; and
- (e) Negative stereotyping of religions, their followers and sacred persons.

For each of these categories, I have presented in my report some cases exemplifying issues and behaviour addressed in HRC resolution 13/16 and added some observations pertaining to international human rights law, which provides sufficient tools to respond to all of them.

Distinguished delegates,

Numerous cases of **acts of violence or discrimination, or incitement thereto**, against believers were brought to my attention in the last year. Be it lethal attacks

against Christians ; incitement to commit violence against Muslim believers; the impossibility for members of certain religions to get citizenship of a given country; or the impossibility for certain religious groups to be granted legal recognition; all these acts are to be emphatically condemned. I would like to recall that these acts are strictly prohibited by international human rights law. States must therefore denounce and prosecute acts of violence against individuals and must also take all necessary measures to ensure that all individuals enjoy their human rights without discrimination of any kind.

Attacks on religious sites were also frequently reported. Among others, there were reports of attacks against Mosques, Synagogues, Churches, and Muslim and Jewish cemeteries. Allow me again to strongly condemn all attacks perpetrated against religious sites. Places of worship are an essential element of the manifestation of the right to freedom of religion or belief. I therefore call upon States to live up to their responsibilities under the relevant international human rights standards which protect religious sites.

My report also addresses the issue of **religious and ethnic profiling**. As such, I was informed of cases where people felt subjected to unjustified police surveillance, had been stopped and searched by the police or even detained, solely based on their perceived religious or ethnic affiliation. While acknowledging the necessity for States to take measures to ensure public security, particularly in order to counter terrorism, I am nonetheless deeply concerned by reports of discriminatory profiling targeting specific groups of the population, in particular Muslims. I therefore call upon States not to resort to profiling founded on discrimination grounds prohibited by international law, including on racial, ethnic, or religious grounds.

The question of **bans or restrictions on religious symbols** has been the subject of controversy in numerous countries. In this regard, I was informed of cases where Muslim female students were prohibited from taking examinations if they wore headscarves or where Sikh individuals were prohibited from wearing their turbans in schools. Equally, public debates around the ban of minarets or the ban of the niqab have also been very much at the fore recent months. These questions are delicate ones, as they raise complex human rights issues. I am also aware of the necessity to strike a balance between security concerns, protection of the rights of others and respect for women's rights. The objective should be to safeguard both the positive freedom to display religious symbols and the negative freedom from being forced to display religious symbols.

In general, I would like to emphasize that it is up to an independent and impartial judiciary to assess, on a case-by-case basis, whether these restrictions run counter to, inter alia, the freedom to manifest one's religion or belief, the freedom of expression and the principle of non-discrimination. In addition, it is the judiciary that should assess the impact of those measures on the human rights of all.

Regarding the recent controversial debates around banning the construction of minarets and the wearing of religious symbols, I am concerned that they demonstrate a growing trend where extremist persons in positions of public influence whip up prejudice and bigotry. In this regard, I deplore the numerous political campaigns

relying on those fears for political gains and strongly encourage moderate voices from all sides to be more prominent and counter these campaigns and raise awareness.

Numerous cases of **negative stereotyping** of religions, their believers and sacred persons have also been brought to my attention. Among others, I received reports on TV broadcasts and cartoons depicting Jews, Muslims or other believers in a negative manner; public protests against the Islamization of certain regions or countries; or books that were considered as insulting of the Buddhist religion. While I regret these worldwide reports of stereotyping which do not contribute to constructive dialogue among communities, I nonetheless recognize that peaceful expressions of opinions and ideas should always be tolerated, as long as they do not fall under the specific restrictions enshrined in articles 19 and 20 of the International Covenant on Civil and Political Rights.

In my report, I distinguish between negative stereotyping of religions on the one hand, and of believers or of sacred persons on the other. I believe these instances should be treated differently from a human rights perspective. On stereotyping of individuals, I would like to recall that the exercise of the right to freedom of expression carries with it special responsibilities. Consequently, it is subject to certain restrictions, but these should be provided by law and necessary for respect of the rights or reputations of others; for the protection of national security or of public order; or of public health or morals. However, there ought not to be restraint of free speech unless it is clearly demonstrated that this restraint is strictly consistent with international law. In addition, I would like to underline that sanctions on defamatory expressions should in no way be of a criminal nature. Concerning negative stereotyping of religions, I would like to recall that vigorously interrogating and criticizing religious doctrines and their teachings is thoroughly legitimate and constitutes a significant part of the exercise of freedom of expression and freedom of religion. Consequently, I continue to encourage the Council to focus on how advocacy of racial or religious hatred that constitutes incitement to discrimination, hostility or violence can be effectively combated. The Council should ensure that State obligations are fully implemented before contemplating any additional standards. It is vital to anchor the debate, and indeed subsequent action, in the relevant existing international legal framework.

My report concludes that advocacy of racial or religious hatred is an external manifestation of something much more profound which is intolerance, ignorance or bigotry. While legislative responses are often the first response to this phenomenon, they are usually not sufficient to bring about real changes in mindsets and perceptions. Tackling the root causes of manifestations of religious intolerance affecting individuals' human rights requires a much broader set of policy measures. I therefore recommend States to put a strong emphasis on a broad range of preventive measures which aim at fostering a peaceful society, in particular in the areas of education, awareness-raising and interreligious and intercultural dialogue.

Moreover, my report demonstrates that freedom of religion or belief is under various threats in different parts of the world. Regarding Islamophobia, which Council resolution 13/16 asked me to give particular attention to, I have indeed received worrying reports of incidents of violence or discrimination targeting Muslims individuals. Let me re-emphasize that these incidents need to be addressed with greater resolve by individual States.

Ladies and Gentlemen,

The second report I will present relates to the implementation of the General Assembly resolution entitled “Inadmissibility of certain practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance” (A/HRC/15/45). This report provides an update to a previous report submitted to the General Assembly in 2009 (A/64/295). I will shortly present another report on the same issue at the current session of the General Assembly (A/65/323)).

Due to the fact that extremist political parties, movements and groups, most often rely on intolerance, discrimination, exclusion and xenophobia, their persistent existence poses major challenges to democracy and to a number of human rights and freedoms, including the principle of non-discrimination; the rights to life and to security of person; the rights to freedom of expression, assembly and association. My report therefore examines in which manner their ideology, rhetoric and activities often contravene the principles of discrimination and equality and incite to acts of violence against targeted groups of individuals. I also briefly discuss how these parties, movements and groups pose a serious dilemma to States which attempt to counter them, while ensuring the freedoms of expression and of association, and how they flout the very same democratic principles that enable these parties, movements and groups to disseminate their racist, xenophobic or intolerant agenda. It should be highlighted that the issues addressed in my report should not be regarded as exhaustive.

Extremist political parties, movements and groups bring into question the human rights principle of non-discrimination. Indeed they frequently incite discrimination against specific groups of individuals and often designate them as the main source of socio-economic difficulties encountered. They further often rely on the general discontent among the population and the difficulty or sometimes failure of the traditional political parties to deal adequately with certain issues such as immigration, unemployment and insecurity, to exacerbate racist and xenophobic attitudes. In addition they often consider themselves as the only legitimate holders of the national identity of a given country.

Sometimes, their rhetoric may go beyond simple advocacy of discrimination against specific groups. It may indeed incite people to commit acts of violence or justify its use. This may at times lead to the perpetration of racist and xenophobic crimes that constitute a violation of the rights to life and security of person. In this regard, I would like to express my deep concern about reports of individuals being bodily harmed or even murdered because of their perceived national or ethnic origin. In particular, I am concerned that migrants, refugees, asylum-seekers and members of minorities appear to be among the vulnerable groups who are at particular risk of such acts. I therefore emphasize that racist and xenophobic crimes ought to be recognized and addressed with resolve by States through legislative and other measures. Indeed I do believe that it is essential to criminalize acts motivated by racist hatred and xenophobia, or recognize racism or xenophobia as an aggravating circumstance warranting greater sanctions. States should also ensure that those responsible are held accountable before the law and that the victims have access to justice, including reparation. Legislative measures should be complemented by a much broader set of policy measures,

including education, awareness-raising and initiatives that promote intercultural dialogue.

States are faced with a complex dilemma when countering extremist political parties, movements and groups. They must ensure the full enjoyment of the right to freedom of expression and allow all political parties, movements and groups to enjoy their right to freedom of assembly and association, while taking measures to counter extremist political parties, movements and groups. The difficulty therefore consists in assessing when restrictions on the respective rights to freedom of expression, assembly and association may be warranted. Consequently, as I said earlier, determining which acts or expressions may meet the thresholds determined in articles 19 to 22 of the International Covenant on Civil and Political Rights, and in article 4 of the International Convention on the Elimination of All Forms of Discrimination, is ultimately a decision best made after a thorough assessment of the individual circumstances of each case. This decision should always be guided by well-defined criteria, in accordance with international standards, and be made by an independent and impartial court or tribunal.

Extremist political parties, movements and groups have learned to use the open space left for public debate and participation in a democratic society to disseminate their racist, xenophobic or intolerant ideologies. They are frequently able to influence or restrict the political debate around their often racist and xenophobic ideology and have managed to gain electoral support by presenting simplistic and populist ideas to solve complex problems. Democratic societies have developed strategies to counter them. However, in some cases traditional political parties have built coalitions with extremist political parties. I therefore emphasize the key role that political leaders and parties have to play, and recommend that political parties base their programme and activities on respect for human rights, and refuse to enter into any alliance with extremist parties of a racist or xenophobic character to form majorities wielding political power in a given State.

Finally, Mr. President, I would like to conclude by calling upon all States to be more vigilant vis-à-vis extremist political parties, movements and groups which promote, either explicitly or implicitly, the dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination and xenophobia, as well as acts of violence or incitement to such acts against specific groups of individuals. No State is immune from such attempts to debase humans, and create divisions within society.

I look forward to our dialogue and I thank you for your attention.