



**KENYA**

**STATEMENT BY**

**HON. KIRAITU MURUNGI, EGH, MP,  
MINISTER FOR JUSTICE AND CONSTITUTIONAL AFFAIRS  
OF THE REPUBLIC OF KENYA**

**AT THE 61<sup>ST</sup> SESSION OF THE COMMISSION ON HUMAN RIGHTS**

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Mr. Chairman,

On behalf of the Government and People of Kenya allow me to extend our warmest congratulations for your appointment as Chairman of the 61<sup>st</sup> Session of the Commission of Human Rights. Your vast experience and professional qualifications leave me in no doubt that you will steer the work of the Commission successfully. Similarly, I extend my congratulations to your predecessor, Ambassador Mike Smith, for the efficient and professional manner in which he presided over the 60<sup>th</sup> Session of the Commission.

May I also congratulate H.E. Louise Arbour for her appointment as the High Commissioner. We look forward to a close working relationship with her and commend her for the efforts and the leadership she has already demonstrated.

Since the Commission was formed in 1946, many conferences have been held, treaties ratified and declarations and resolutions adopted. It is therefore time to critically evaluate the impact of the Commission's work on the daily lives of our people and indeed all people of the world. In our case, the majority of our people do not know about the Universal Declaration of Human Rights. They are too preoccupied with a daily struggle for survival. To them human rights is an abstract concept. Over the last two decades, our part of the world has experienced negative economic growth, massive unemployment, limited access to world markets, unbearable levels of the debt burden and increased poverty just to mention a few.

For our people therefore human rights can only be meaningful if it addresses insecurity, unemployment, drought, famine, crop failure, poverty and disease. Our people know and understand that their human dignity is inseparable from the struggle against hunger, disease and ignorance. For us, the right to development is therefore as fundamental as civil and political rights.

It is against this background that we welcome the Secretary-General's efforts to institute the much needed reform of UN bodies including the Commission. The Report of the High-Level Panel on Threats, Challenges and Change has, not surprisingly, stimulated much debate in this High Level Segment of the Commission. The report accurately identifies some challenges that the Commission faces and makes some concrete proposals on the possible way forward. It is now up to the member states to discuss these proposals and decide on how they should be treated.

For us, some of the proposals will require urgent attention, while others will need a more in-depth study since they will of necessity entail other far reaching changes in the set up of the UN System. It may not be possible to implement them in the way in which they have been presented.

The proposal to strengthen the office of the High Commissioner through adequate and unearmarked resources should be implemented as a matter of priority. The mandate holders must be furnished with adequate financial resources to enable them to effectively carry out their mandates. Similarly, the proposal regarding annual reports by the Secretariat on all countries is one which we are ready to support. It would however require more resources and personnel at the Secretariat so as to ensure that the reports are objective, accurate and unbiased.

May I assure you that my delegation stands ready to participate in future debates on this important subject.

Mr. Chairman,

Allow me now to provide some highlights to this august body on the state of human rights in Kenya.

For Kenya, human rights is not an abstract ideology. It is a firm recognition that all human beings irrespective of their economic or social status are equal, that they are invested with inherent worth and dignity, and that they should be treated in a humane and respectful manner. We believe, as was reaffirmed in Vienna in 1993, that human rights are universal, inter-dependent and inter-related. It is for this reason that we attach great importance to the work of the Commission in the promotion and protection of human rights.

We are particularly perceptive about human rights violations because of our history, both past and recent.

For many years Kenyans lived under an oppressive one party regime that had a history of gross violations of human rights, a situation which was encouraged and supported by coercive laws and institutions inherited from the colonial administration. Many Kenyans were routinely killed, tortured, detained without trial, exiled, or economically destroyed, as they struggled to claim their fundamental freedoms. The majority of Kenyans lived in a state of abject poverty, political apathy and lawlessness, where organized crime, official theft, extortion, bribery and rampant corruption was the order of the day. This political culture has been the principle cause of our economic and social backwardness.

A new political dispensation was ushered in after the historic democratic elections in December 2002. The new Government, led by H.E. President Mwai Kibaki, has a vision of a hard working, free, democratic, prosperous, and corruption-free Kenya. We are committed to attaining high economic growth rates, creation of wealth and employment

and eradication of poverty and corruption with a view to improving the welfare of each and every person in Kenya.

The Kibaki Government is committed to making a radical break with Kenya's unflattering past. We have vowed to protect our people against any forms of tyranny and oppression, and to ensure peace, stability, freedom and justice in our society.

Mr. Chairman, allow me to touch some of the concrete steps we have taken so far.

- We have removed the traditional barriers to freedom of expression and opened up space for unlimited democratic participation. Tremendous gains have been made in the mental and psychological liberation of our people. We have destroyed the culture of fear and silence. For the first time in our history, our people are enjoying unprecedented freedom of expression and political participation. We boast of one of the most free media in the world today.
- The Government has created the Ministry of Justice and Constitutional Affairs with express mandate on human rights policy and democratic governance.
- The Government has established an independent **National Commission on Human Rights** with a broad legal mandate to protect and promote human rights, to investigate complaints, to provide redress, and to ensure compliance with international human rights instruments.
- The Government has established an inter-ministerial committee, which works with Civil Society Organizations to deal with cross-cutting issues of human rights, and implementation of international human rights obligations.
- We are developing a National Action Plan on human rights together with other relevant Ministries, the National Human Rights Commission, and Civil Society Organizations. Once completed, the action plan will provide a comprehensive programmatic framework for the promotion and protection of human rights in Kenya.
- Kenya is among the first four African countries to voluntarily offer itself for review under the NEPAD Peer Review Mechanism, which evaluates governance, rule of law, justice and human rights issues and recommends remedial measures.
- The Government has commenced on preparation of reports under various international human rights instruments. We have recently submitted a report to the Committee on the Rights of the Child. This week, the Human Rights

Committee is considering Kenya's Second Periodic Report under the International Covenant on Civil and Political Rights at its 83<sup>rd</sup> Session in New York.

- The Government has closed the notorious Nyayo House torture chambers - the custom-made torture dungeons, in which hundreds of political prisoners were systematically tortured by state agents. The Government has enacted the Criminal Law (Amendment) Act 2003, which outlaws torture and corporal punishment, and prohibits courts from accepting confessions made to police.
- We have dealt firmly with the perpetrators of ethnic clashes in various parts of the country. The clashes have not only been stopped but the underlying causes such as political incitement and shortage of water are being addressed. The Government has established a Committee to resettle the victims of the clashes perpetrated by the previous regime.
- We are committed to abolish the death penalty. In the meantime, we are in the process of commuting all death penalties to life imprisonment.
- The Government has enacted the Gender Commission Act and established a National Commission on Gender to mainstream gender in all aspects of public life.
- We have established an unprecedented sector wide reform programme which aims at reforming the entire justice, law and order sector (GSLOS) to promote good governance, administration of justice, and protection of human rights.
- The Government has formulated the **Economic Recovery Strategy for Wealth and Employment Creation**, which seeks to eradicate poverty and secure the economic and social rights of the poor and the marginalised. The Government has instituted an ambitious programme of universal free Primary Education, affordable, accessible health-care and an agricultural recovery programme, which is aimed at increasing the household incomes of the rural poor. The Government has initiated programmes for equitable distribution of budgetary resources through Constituency Development Fund, Constituency Bursary Fund, Constituency Aids Committees and District Roads Boards.
- The Government has identified corruption to be the principal structural bottleneck to economic and social development. It is the greatest obstacle to poverty eradication and enjoyment of human rights. Kenya was the first State in the world to ratify the UN Convention Against Corruption.

- The Government has put in place a sound legal and institutional framework for anti-corruption reform, investigation, prosecution and punishment. This will protect public resources from theft, wastage and plunder thereby availing them for poverty alleviation programmes. The Special Rapporteur of the Sub-Commission on Corruption visited Kenya last year at the invitation of the Government. Kenya Government is ready and willing to work with the sub-commission to create strong linkages between corruption and human rights.
- Finally, but more fundamentally, Kenya is in the process of completing a comprehensive review of its Constitution. Once completed, it will dismantle the oppressive legal and institutional structures of the single party dictatorship. The draft constitution contains a comprehensive modern bill of rights including the rights of women and children and an effective enforcement mechanism.

Mr. Chairman,

In order to successfully implement this human rights agenda we require greater assistance and support from the international community. We appreciate the assistance we have already received from our friends, partners, donors, and the Office of the High Commissioner for Human Rights.

Mr. Chairman,

Although charity is said to begin at home, for us in Africa it only makes sense if it is shared with your neighbours. Our efforts to promote and enhance human rights have not been confined to our borders. As you know, the Kenya Government spearheaded the historic conflict resolution initiatives for both Sudan and Somalia where civil wars and social conflict has disrupted security and production systems for decades, thus leading to a human rights catastrophe. The recently concluded peace agreements by the warring parties in the two neighbouring countries provide the needed framework for reconstruction and rehabilitation. Their implementation will be expected to improve human rights in these two neighbouring countries. On Darfur, we are working within the Framework of the African Union and will be available to offer any additional support needed in that regard. We are confident that our brothers and sisters in the Sudan will move quickly to ensure the steps already agreed upon will be fully implemented.

Further a field, the Government has ratified the Rome Statute establishing the International Criminal Court (ICC) to facilitate the punishment of crimes against humanity. It is our belief that together we can, as an international community, successfully address situations of serious violations of human rights.

The global human rights approach must be based on an appreciation of the objective social realities in different regions. It should aim to support and encourage rather than condemn and vilify countries. It must make a difference on the daily lives of those we perceive to have been wronged. It is a challenge that we must face together.

It is for this reason that the Kenya will not support any resolutions under Agenda Item 9 which targets countries for condemnation. The promotion, protection and full realization of human rights in any part of the world must be based on the principles of non-selectivity, impartiality and objectivity. Cooperation rather than confrontation must guide our interventions. Encouragement rather than isolation, support rather than indignation.

We hold the strong view that a strengthened and more representative High Commissioner Office will serve the commission well and address some of the challenges that are currently dealt with under item 9.

We should endeavour to avoid the temptation to politicize human rights issues. We are convinced that the promotion and protection of human rights is a fundamental obligation of Governments, international organizations and the civil society. It requires true multi-lateralism and cooperation to ensure a world in which all human beings enjoy all human rights without any discrimination. We must avoid the danger of transforming this Commission into a forum for partisan political confrontations.

My delegation will work closely with you in this endeavour.

Thank you.