



## EUROPEAN UNION

Permanent Delegation to the United Nations Office  
and other international organisations in Geneva

### UNITED NATIONS HUMAN RIGHTS COUNCIL 19th session

#### **Clustered Interactive Dialogue with the Working Group on Arbitrary Detention and the Special Rapporteur on the human rights of internally displaced persons, Professor Beyani – 6 March 2012**

#### **EU Intervention**

Merci Mme la Présidente,

Je souhaite remercier le Président du Groupe de travail sur la détention arbitraire pour la présentation de son rapport annuel.

L'Union Européenne se félicite de la célébration du 20<sup>ème</sup> anniversaire du Groupe de travail qui s'est déroulé à l'automne dernier à Paris. Il était important de rendre hommage aux anciens et actuels membres du Groupe pour leur action contre la privation arbitraire de liberté. Cette réunion a montré que la problématique des détentions arbitraires continuait de se poser avec acuité et justifiait la vigilance du Groupe de travail.

L'Union Européenne estime que la détention provisoire doit constituer une mesure exceptionnelle, comme le souligne le rapport du Groupe de travail. En aucun cas elle ne doit être injustifiée ou prolongée indéfiniment. Tout individu, dans n'importe quel pays où il se trouve, doit avoir le droit d'être jugé dans un délai raisonnable surtout s'il est privé de liberté.

Par ailleurs, nous partageons l'avis du Groupe de travail selon lequel l'existence d'un recours en Habeas Corpus réel et efficace constitue le meilleur moyen de lutter contre la privation arbitraire de liberté. L'Union Européenne remercie le Groupe de travail d'avoir détaillé les conditions minimales qu'un tel recours doit satisfaire et appelle tous les pays à revoir ses dispositions internes à la lumière de ces éléments.

Cette année encore, l'Union Européenne est préoccupée par l'absence de réponse aux appels urgents et communications du Groupe de travail par de trop nombreux Etats. Nous sommes préoccupés par le nombre élevé de personnes concernées par les

appels urgents lancés par le Groupe de travail, en particulier ceux adressés à l'Iran et à la Syrie.

L'Union Européenne appelle tous les pays concernés à prendre en compte les opinions du Groupe de travail qui concluent à une détention arbitraire, comme c'est le cas pour promoteurs chinois, biélorusse et ouzbek de la démocratie, M. Liu Xiaobo, M. Mikalai Statkevich et M. Akzam Turgunov, dont les situations sont suivies de près par l'Union Européenne.

M. le Président, pourriez-vous nous expliquer comment le Groupe de travail entend utiliser sa nouvelle base de données afin d'assurer le suivi des opinions qu'il a adoptées ?

### **Turning now to the SR on the human rights of internally displaced persons**

We thank the Special Rapporteur for his report to the Human Rights Council and his presentation today. The EU welcomes the focus on IDPs outside camps, which often go neglected. In this context, Professor Beyani has identified the need for data collection as a key precondition to effectively assist IDPs outside camps.

We would have the following questions to Professor Beyani:

- How can humanitarian agencies, the wider UN system and civil society actors contribute to better data collection?
- How can a systematic, human rights based approach be developed with regard to the registration of IDPs, in particular IDPs outside camps and in urban areas?
- Have you found good practices on how the host communities can be better assisted in the context of supporting IDPs?
- Finally, we would like to commend you for the reports on your country visits to Kenya and the Maldives. With regard to Kenya, you have welcomed some of the steps taken by the Government; at the same time you called for a comprehensive national strategy on IDPs. Can you tell us, what are Kenya's biggest challenges with regard to developing a human rights based approach that effectively addresses the problems of all groups of IDPs?



KENYA

**HUMAN RIGHTS COUNCIL**

**Nineteenth Session**

**Agenda Item 3**

**STATEMENT BY KENYA ON THE REPORT OF THE  
SPECIAL RAPPORTEUR ON THE HUMAN RIGHTS OF  
INTERNALLY DISPLACED PERSONS, CHALOKA BEYANI**

**Madam President,**

1. Kenya welcomes the report of the Special Rapporteur on the Rights of Internally Displaced Persons, **Mr. Chaloka Beyani**. The professionalism with which he carried out this task is admirable.
2. Mr. Chaloka has acknowledged the progress and the important steps that Kenya has taken to address internal Displacements despite the challenges that Kenya faces in solving the issues relating to IDPS.
3. The Government has taken measures to address the problem of IDPs in a more structured way in order to ensure that all the IDPs irrespective of the reasons for their displacements are resettled. This is also in recognition of the fact that internal displacements also affect other basic

human rights like the right to housing. In this regard the Government is working with the National Human Rights Institution, Civil Society and Development partners to find a lasting solution to internal displacements<sup>a</sup> is putting in place comprehensive systems.

4. The Government has developed a National Policy on Internally displaced people (IDPs). The policy provides a framework for the protection and assistance of IDPs in Kenya and also aims to prevent future displacements.
5. Most importantly the policy allows for the review of existing laws to deal with impunity. The laws will ensure that those who contribute to the displacement of others are made to account.
6. Kenya is also a signatory to the Great Lakes Pact which entered into force on the 21st June 2008. The pact provides a legal framework governing relations between Member States.
7. The Pact comprises of ten protocols, two of which directly relate to IDPs in line with the UN Guiding Principles: Article 11: Protocol on the Property Rights of Returning Persons and Article 12: Protocol on the Protection and Assistance to Internally Displaced Persons.

**Madam President,**

8. Kenya has diligently studied the Special Rapporteur's report. The Government has prioritised the following actions in accordance with his recommendations:

- a) Developing a legal and policy framework on IDPs in line with regional and international standards; ...
- b) Strengthening institutions and other mechanisms which are geared towards generation of respect for diversity and cultivation of a culture for the respect of the rights of other ethnic groups; and
- c) Implementing policies and laws that nurture a culture of diversity, national cohesion and integration.

9. Finally, I would like to take this opportunity to reaffirm Kenya's commitment to address the root causes of internal displacements. The Government is committed to protecting any internally displaced person against discrimination, if need be through affirmative action. *we assure the SR our continued cooperation ...*

Thank you.

**H.E.Dr.Tom Mboya Okeyo**

Ambassador/Permanent Representative

Permanent Mission of Kenya to the United Nations and other  
International Organizations Geneva March 3, 2012



**STATEMENT OF THE KENYA NATIONAL COMMISSION ON HUMAN  
RIGHTS**

**PRESENTED BEFORE THE 19<sup>TH</sup> SESSION OF THE HUMAN RIGHTS  
COUNCIL DURING THE PRESENTATION OF REPORT OF THE  
SPECIAL RAPPORTEUR ON INTERNALLY DISPLACED PERSONS ON  
HIS MISSION TO KENYA**

**7<sup>TH</sup> MARCH 2012**

1. Madam President, on behalf of the Kenya National Commission on Human Rights, I express our sincere appreciation for the opportunity to address the Human Rights Council. I also thank the Special Rapporteur on IDPs for presenting a comprehensive mission report. We fully support the report.
2. Since its inception the Commission has profiled rights of IDPs in Kenya through monitoring and reporting on their situation, undertaking targeted capacity building, lobbying and advocacy initiatives. It has also supported IDPs groups in the country to create publicity about their challenges.
3. In February; Kenya marked the 4<sup>th</sup> year anniversary of signing of the National Accord that restored peace in the country following the post election violence in 2007/8. Resettling IDPs and addressing their human rights situation was one of the short term recommendations in the accord.
4. Madam President, we acknowledge the Government's commendable efforts to allocate budgetary resources for protection and assistance to IDPs. We also have a draft policy and a draft bill on IDPs which is soon to be tabled in parliament. The judiciary has progressively interpreted article 43 (b) of the Constitution on the right to adequate housing in the context of forced evictions.
5. However, as the report has rightly noted, the Government has been weak in securing durable solutions for IDPs and ensuring their substantive participation in the return, resettlement and integration process. Also the slow progress in adopting the draft policy on IDPs and other relevant policies is an impediment to providing adequate protection to all IDPs in Kenya.
6. Madam President, the lack of a comprehensive and reliable data on IDPs is making it difficult to provide protection and assistance to all IDPs. For instance, last week there was confusion in parliament over the fate of a group of IDPs in Subukia that the government referred to them as "fake IDPs" while some Members of Parliament insisted they were genuine. This is the situation we are experiencing in Kenya.

7. While Government has mainly focused on victims of post election violence, persons displaced by other causes receive minimal protection and assistance. Displacements continue to occur. In the last two months over 10,200 people have been displaced due to two separate conflicts among warring communities in Muhoroni in the west and Moyale in the north of Kenya. Over 80,000 people were displaced by flooding last year. Thousands more have been displaced by evictions, resource based conflicts, and boundary clashes.
8. Evictions continued to occur into the first quarter of the year. I refer the Council to paragraph 82(c) of the December 2004 Kenya mission report and paragraphs 191, 192 and 211 of the February 2010 follow up report of Special Rapporteur on housing. These reports called for adoption of policy and legislative framework on evictions and urged government to honour its commitment to implement a moratorium on forced evictions. None has happened.
9. Madam President, as the next general election approaches we fear there might be reoccurrence of displacement. There is need for heightened monitoring and contingency planning.
10. The Commission reaffirms the need for time bound commitment by the Government to adopt and implement the draft policy and bill on IDPs, eviction guidelines and other relevant policies; fast track the resettlement of the remaining IDPs and forest evictees, and compile comprehensive data on IDPs. The Government should also honour its commitment to implement a moratorium on forced evictions.
11. Madam President, the Commission will study the report and identify specific recommendations in the report to implement and engage relevant Government ministries and departments, civil society, humanitarian actors, development partners, members of the protection working group on IDPs and the public to create awareness about it and advocate for its implementation.
12. We are looking forward to work closely with the Special Rapporteur on IDPs in this regard.
13. Thank you very much Madam President.

Signed by:

  
.....  
**Commissioner Fatuma Ibrahim Ali**



## STATEMENT BY KENYA

### 19<sup>TH</sup> SESSION OF THE HUMAN RIGHTS COUNCIL ITEM 3: SPECIAL RAPPORTEUR ON THE RIGHTS OF INTERNALLY DISPLACED PERSONS

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Madam President,

1. Kenya welcomes the report of the Special Rapporteur on the Rights of Internally Displaced Persons, Mr. Chaloka Beyani. The professionalism with which he carried out his task is admirable.
2. As Mr. Chaloka has acknowledged, Kenya faces challenges in addressing issues related to IDPs. Nevertheless, there has been some progress and this is an important step.
3. The Government has taken measures to address the problem of IDPs in a more structured way. A National Policy on IDPs has been developed.
4. The policy provides a framework for the protection and assistance of IDPs in the country and also aims to prevent future displacement.
5. Most importantly, the policy allows for the review of existing laws to deal with impunity. The laws will ensure that those who contribute to the displacement of others are made to account.
6. Kenya is also a signatory to the Great Lakes Pact, which entered into force on 21<sup>st</sup> June, 2008. The pact provides a legal framework governing relations between the Member States.

7. The Pact comprises of ten protocols, two of which directly relate to IDPs in line with the UN Guiding Principles: Article 11: Protocol on the Property Rights of Returning Persons and Article 12: Protocol on the Protection and Assistance to Internally Displace Persons.

Madam President,

8. Kenya has diligently studied the Special Rapporteur's report. The Government has prioritized the following actions in accordance with his recommendations:

- a) It is developing a legal and policy framework on IDPs in conformity with regional and international standards;
- b) We are strengthening institutions and other mechanisms which are geared towards generation of respect for diversity and cultivation of a culture for the respect of the rights of other ethnic groups; and
- c) We are also in the process of implementing policies and laws that nature a culture of diversity, national cohesion and integration.

9. Finally, I would like to take this opportunity to reaffirm Kenya's commitment to addressing the root causes of internal displacements. The Government is committed to protecting any internally displaced person against discrimination, if need be, through affirmative action.

Thank you.

H.E. Dr. Tom Mboya Okeyo  
Ambassador / Permanent Rep  
Kenya 6-3-12



Permanent Mission of the Republic of Maldives  
to the United Nations Office at Geneva

**Statement by H.E. Ms. Iruthisham Adam**  
**Permanent Representative of the Republic of Maldives**  
**Report of the Special Rapporteur**  
**on the human rights of internally displaced persons**  
**Human Rights Council, March 6th 2012**

Thank you Madam President,

The Maldives delegation would like to welcome the UN Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani, to the Human Rights Council, and to thank him for his mission report contained in document HRC/19/54/Add.1.

The Maldives was pleased to welcome Mr. Beyani from 16 to 21 July last year to look into human rights issues related to the situation of persons displaced by the 2004 Asian Tsunami, and to address human rights issues related to future climate-induced internal displacement.

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Permanent Mission of the Republic of Maldives  
to the United Nations Office at Geneva

The Maldives was pleased to receive the mission both in order to take stock of efforts made since the 2004 Tsunami, and in order to gain ideas and perspectives about how a human rights based approach to future policy making may help the Maldives better protect the rights of displaced persons in the context of climate change.

The Maldives notes that Mr. Beyani's visit is the second by the UN. Special Rapporteur dealing specifically with human rights issues surrounding climate change.

Madam President,

As the Special Rapporteur notes in his report, the 2004 Tsunami caused untold damage to the Maldives, including to its infrastructure. Thousands of homes were either destroyed or severely damaged, and an estimated 12,000 people were displaced from their islands.

Since 2004, the Maldives has sought to construct a new disaster risk reduction strategy, including a wide range of new

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institutions, policies and programmes. This has included the adoption of a Strategic National Action Plan for Disaster Risk Reduction and Climate Change Adaptation, the creation of a National Disaster Management Centre, and the drafting and adoption of a Disaster Management Bill in 2009. The Maldives concurs with the Special Rapporteur's recommendation that consideration of the rights of internally displaced persons should be incorporated at all stages, in all relevant development plans and programmes, in line with a human rights-based approach and the Guiding Principles on Internal Displacement. This recommendation has been shared with the relevant departments in the Maldives.

It is of course beyond doubt that disasters similar to the one experienced in 2004 will become more common as the effects of climate change intensify.

As the Special Rapporteur notes, the Maldives is already taking a range of actions to respond to the actual and projected threat of climate change. This includes the disaster risk reduction strategy and the climate change adaptation strategy. However,

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we also note that without action by the international community, in particular the need to drastically reduce greenhouse gas emissions, our disaster risk reduction and climate adaption strategies will not be sufficient to prevent internal displacement all together.

Therefore we note that mandate-holders' conclusion that the rights of IDPs should be factored into all these strategies, and welcome his concrete recommendations in this regard – recommendations which have been and will be considered by relevant departments of government. We emphasise the need for international support to assist such mainstreaming.

Finally, we welcome the call, in the report, for the international community to factor in displacement considerations into the international adaptation frameworks being agreed under the UNFCCC framework.

Thank you.

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