

Impact case study (REF3)

Institution: London School of Economics and Political Science		
Unit of Assessment: 18 - Law		
Title of case study: Protecting the human rights of internally displaced persons		
Period when the underpinning research was undertaken: 2000-2019		
Details of staff conducting the underpinning research from the submitting unit:		
Name(s): Chaloka Beyani	Role(s) (e.g. job title): Associate Professor of Law	Period(s) employed by submitting HEI: 1996 to present
Period when the claimed impact occurred: 2013-2020		
Is this case study continued from a case study submitted in 2014? No		
1. Summary of the impact (indicative maximum 100 words)		
<p>Dr Chaloka Beyani's pioneering research on protecting and assisting internally displaced persons (IDPs) has underpinned the drafting of new national legislation in South Sudan (2018-19) and Ethiopia (2019-20). In each of these countries, the legislation ratifies and implements the Kampala Convention and secures and protects the basic rights of IDPs, many of whom are in urgent need of humanitarian assistance and had previously struggled to access their basic rights. The estimated IDP populations of South Sudan and Ethiopia are 1.8 million and 1.78 million respectively; the new legislation stands to benefit them all.</p>		
2. Underpinning research (indicative maximum 500 words)		
<p>Dr Chaloka Beyani has conducted extensive research on international human rights protection, and especially the protection of the human rights of persons displaced within states, i.e. internally displaced persons (IDPs). His ground-breaking 2000 monograph [1] on the subject contained practical proposals for applying international human rights standards to internal movement, including policies on freedom of movement and choice of residence within states, the general regulation of movement within states, and the internal movement of minorities and indigenous groups who are vulnerable to displacement. Beyani's proposals initially were treated with some suspicion, not least because they cut across some of the standard policies on the international movement of persons (including refugees) between states. But over the last decade or so, Beyani's analysis and arguments have become highly influential in shaping the policies of various states, especially in Africa, on the protection of IDPs.</p> <p>Beyani's research led to his appointment in 2005 as the African Union Expert to draft and negotiate the adoption of the 2009 African Union Convention for the Protection and Assistance of IDPs (the Kampala Convention). This was the first instrument of its kind in the world, prompted by massive displacement in the Great Lakes Region and the effects of the genocide in Rwanda. As Legal Advisor, Beyani drafted the entire 2006 Great Lakes Pact on Peace, Stability and Development, with 11 peace treaties under it [2], including the first legally binding treaty on Protection and Assistance to IDPs. After completing this work, in 2010 he was appointed by the United Nations (UN) as the Special Rapporteur and envoy of the Human Rights Council to promote, mainstream, and devise measures for the international protection of IDPs all over the world. UN Special Rapporteurs are independent experts tasked with investigating, researching, and giving technical advice on how to improve human rights situations.</p> <p>Beyani's research has demonstrated that although freedom of movement is a fundamental liberty, international and domestic legal interpretations of this right are often premised on a model of protection which does not recognise IDPs as bearers of the full panoply of human rights and freedoms [1]. His subsequent studies have also shown how it is possible to extend the protection of national and international norms to IDPs while reconciling it with a state's claims to sovereignty as the primary basis for protecting citizens, including IDPs. This was put into effect in his work on the Great Lakes Pact [3] and in the African Union Convention, which he was invited to draft [4].</p> <p>The research investigations he undertook for the African Union and UN [5] have provided the foundation for the work he has undertaken in advising the Governments of South Sudan and Ethiopia, especially in preparing, drafting, and negotiating the adoption of innovative legislation for the protection and assistance of IDPs in these countries. Beyani's earlier studies had revealed the</p>		

inadequacy of existing legislation, showing how it lacked the breadth and depth required to address the specific rights-based needs of IDPs.

With respect to South Sudan, Beyani drew on research conducted in November 2013 when on an official mission as UN Special Rapporteur on the human rights of IDPs [6] [7]. Here, Beyani's research found an absence of adequate capacity and institutional preparedness to prevent and respond to internal displacement in the short, medium, and longer term. A key recommendation of this research was the institution of a comprehensive policy framework for South Sudan: "in reconsidering the primary responsibility of the Government of South Sudan to assist and protect internally displaced persons, the Special Rapporteur strongly urges civilian authorities...to plan and implement a process leading to the establishment of a comprehensive policy framework on internal displacement in accordance with regional and international standards and drawing from the guidance of the [Great Lakes] Pact" [7].

The research highlighted the urgent need for prevention of internal displacement, noting how the protection challenges faced by IDPs in South Sudan resulted from complex and overlapping drivers of conflict. Many IDPs were repeatedly displaced due to a variety of compounding causes, such as inter-communal violence, security concerns, and natural disasters. The human cost of this conflict is immense, characterised by human rights violations, the targeting of civilians by armed groups, and the forced displacement of civilians.

3. References to the research (indicative maximum of six references)

- [1] Beyani, C. (2000). *Human Rights Standards and the Free Movement of People within States*. Oxford University Press. ISBN: 9780198268215.
- [2] Beyani, C. (2007). Introductory Note on the Pact on Security, Stability and Development in the Great Lakes Region 2006. *International Legal Materials*, 46(1), pp. 173-175. Available at: <http://eprints.lse.ac.uk/2429/>
- [3] Beyani, C. (2013). *Collected Essays on the Use of International Law*. London: Cameron May. ISBN: 9781907174124.
- [4] Beyani, C. (2006). The Elaboration of a Legal Framework for the Protection of Internally Displaced Persons in Africa. *Journal of African Law*, 50(2), pp. 187-197. DOI: 10.1017/S0021855306000155.
- [5] Beyani, C. (2014). *Report of the Special Rapporteur on the human rights of internally displaced persons*. Report to the UN Human Rights Council, twenty-sixth session. A/HRC/26/33. Available at: <https://digitallibrary.un.org/record/771916?ln=en>
- [6] Beyani, C., Baal, N., and Caterina, M. (2016). Conceptual Challenges and Practical Solutions in Situations of Internal Displacement. *Forced Migration Review*, 52, pp. 39-42. Available at: <http://eprints.lse.ac.uk/86729/>
- [7] Beyani, C. (2016). *Report of the Special Rapporteur on the Human Rights of Internally Displaced Persons: mission to South Sudan*. Report to the UN Human Rights Council, twenty-sixth session. A/HRC/26/33/Add.3. Available at: <https://digitallibrary.un.org/record/835359>

Evidence of international scholars' reliance on the research published in [1] can be found in: (2011) Colum. J. Transnat. L. 690; (2010) Regent J. Int. L. 251; (2005) J. Refugee Studs 100; (2003) Chinese J. Int. L. 519.

4. Details of the impact (indicative maximum 750 words)

The central impact of the underpinning research is the drafting of significant new legislation in South Sudan and Ethiopia. In each of these countries, the legislation ratifies and implements the Kampala Convention and secures and protects the basic rights of IDPs.

South Sudan: the Protection and Assistance to Internally Displaced Persons Act 2019

In June 2019, the South Sudan Government formally adopted the draft legislation, the Protection and Assistance to Internally Displaced Persons Act 2019. This legislation was drafted by Beyani and was the culmination of a consultative process with key government, UN, civil society, and IDP stakeholders. Both the legislation itself and the consultation were informed by the underpinning research.

The Republic of South Sudan seceded from Sudan on 9 July 2011. In December 2013, violence and internal armed conflict broke out in South Sudan, leading to the displacement within Sudan of more than two million people. The conflict and the ensuing displacement took place one month after Beyani's official mission to South Sudan to research, investigate, and compile an official report of the UN Human Rights Council on the situation of IDPs and make recommendations to address their situation [7].

In June 2014, the Human Rights Council held a meeting at which Beyani was invited to present the findings of his reports [5] [7] and engage in a clustered interactive dialogue with a selection of Member States' delegations, including South Sudan, who spoke as a concerned country [A]. Speaking more widely on the issue of IDPs, Beyani highlighted the significance of the Kampala Convention (which had come into force just 18 months previously) in strengthening international and regional responses to such crises of internal displacement, before going on to specifically address the situation in South Sudan and reiterate the key recommendations arising from his report [7]. Delegations were alarmed by the record numbers of IDPs in the world (33.3 million in 2014) and asked how the international community could better assist the implementation of the Kampala Convention. The delegation from South Sudan spoke to accept the findings of Beyani's report, noting that "*most of these were actually in line with the challenges faced by the country*" [A].

In 2018, two years after the completion of his mandate and in recognition of his previous work in the country, Beyani was invited by the South Sudan Government to advise on the ratification of the Kampala Convention, to draft the national legislation required to implement it, and to devise a framework to govern the protection and assistance of IDPs and to make provision for durable solutions [B]. He began by reviewing the Constitution and existing laws to identify specific gaps in the protection of IDPs. The major gaps identified were the lack of a law to address the protection and assistance needs of IDPs and long-term solutions for them, and the absence of a coordinating mechanism to engage a whole-of-government approach to the problem of internal displacement.

Beyani outlined two fundamental challenges to effectively legislating in this area. First, because process determines outcome, the process of preparing legislation must include procedures that seek to build consensus amongst many stakeholders, including the government, UN agencies, and the participation of the chosen representatives of IDPs. The quality and legitimacy of the proposed legislation depends on the resilience of this process since it influences its acceptance by stakeholders and, ultimately, by the government and parliament. Secondly, Beyani's experience of the Kampala Convention indicated that the adoption of special legislative measures to protect IDPs will fail unless backed by national budgetary provision to support effective measures to save their lives, alleviate suffering, and restore lost livelihoods due to displacement.

Addressing these fundamental challenges, Beyani set out to build consensus as a foundation to law-making on IDPs in South Sudan. In August 2018, he led a workshop at which government officials, MPs belonging to the human rights and justice and internal displacement committees, UN agencies, civil society, and IDPs were brought together to discuss the critical legal and policy challenges [C]. This workshop marked the starting point for consultations with IDPs and senior government officials, helping to build their understanding of IDP law-making and enhance their knowledge base to ensure their informed and effective participation. Following the workshop there was a "validation" event for government officials to restate the importance of the process. This was crucial to fostering political will around the legislation [C].

Because of the paucity of data in South Sudan, a survey of IDPs elicited views on their situation and on the desired type and level of protection required to meet their assistance needs. This survey was administered by the UN and showed overwhelming support by IDPs for bespoke legislation. This wider consultation was critical to informing the draft law. For example, it became evident during the consultations that women are likely to face challenges in reclaiming property left behind during displacement due to their lack of documentation and due to discriminatory cultural practices. As a result, appropriate protection for women's property rights was included in the draft law [D].

Once the wider consultations were complete, Beyani prepared a zero draft of the proposed IDP legislation, which was subsequently discussed at a high-level roundtable in September 2018.

Close consultations on the draft were held with the three main ministries (Humanitarian Affairs, Security, and Justice), the Commission for Humanitarian Assistance and Disaster Management, MPs, and civil society representatives. Following these consultations, Beyani revised the draft text and presented the final draft at an official conference in February 2019 [E].

The draft legislation adapts international protection benchmarks to suit the South Sudanese context. Notable provisions include:

- Special protection measures to safeguard housing, land, and property rights for women and children [D].
- Recognising the challenges of achieving durable solutions in the current context, the law provides for pragmatic approaches such as area-based programming, transitional solutions, and the use of cash assistance to strengthen the resilience of communities [D].
- Specific focus on solutions to internal displacement by providing options for return, integration in the location of displacement, or resettlement to another part of the country [D].
- The law also establishes a fund to support its implementation, provided through the allocation of 30% of South Sudan's national oil revenues. This will ensure that humanitarian responses and strategies for long-term solutions are funded from the country's own resources rather than being dependent on external funding [D].

In June 2019, the South Sudan Government formally adopted the draft legislation, the Protection and Assistance to Internally Displaced Persons Act 2019 [F]. The legislation is currently with the Ministry of Justice and is expected to be enacted into legislation in 2021. This establishes the government's legal framework enabling the exercise of its responsibility to protect and assist IDPs and their obligation to find durable solutions. Hussein Mar Nyuot, Minister of Humanitarian Affairs and Disaster Management, has hailed the significance of the new legislation: "*This is very important because South Sudan will have its own law that will govern the rights of IDPs who are our own people*" [E]. The United Nations High Commissioner for Refugees (UNHCR) also welcomed the news: "*Given the pressing mass displacement challenges facing South Sudan, accession to the Kampala Convention is a significant milestone for the protection and assistance of almost two million internally displaced South Sudanese*", said UNHCR's Assistant High Commissioner for Protection, Volker Türk [G].

The effect of this new legislation is to protect the rights of South Sudan's 1.8 million IDPs, who often faced heightened risks of sexual and other violence during their displacement, and who had previously struggled to access their basic rights [G].

Ethiopia: Internally Displaced Persons Act 2020

The draft Internally Displaced Persons Act was officially handed over to the Ministry of Peace of the Government of Ethiopia on 12 December 2019. In February 2020, this legislation ratifying the Kampala Convention was unanimously passed by Ethiopia's parliament. Again, this legislation was drafted by Beyani following a fully consultative process, which he also led.

After completing his work in South Sudan, in 2019 Beyani was invited by the UN and the Government of Ethiopia to undertake similar work in Ethiopia [H] [I]. Again, he was required to review the country's Constitution and existing laws to identify specific gaps in the protection of IDPs. Similar gaps as found in South Sudan were identified, namely the lack of a law to address the long-term protection and assistance needs of IDPs, and the absence of a mechanism to coordinate a full-government approach. Beyani then began work building consensus for the new legislation in Ethiopia.

This process began with an April 2019 workshop - convened by the Ministry of Foreign Affairs and led by Beyani - which resolved that the Government of Ethiopia should ratify the Kampala Convention and immediately begin to prepare an instrument for such ratification. This entailed the domestication of the Kampala Convention by means of a national law on IDPs. Three further workshops were held in this regard. The first consultative workshop on how to make law and policy for IDPs, led by Beyani, was held in October 2019, comprising individual federal state officials responsible for IDPs. The workshop succeeded in laying out the framework for protecting IDPs in Ethiopia. A second workshop was held in December 2019, again led by Beyani, and comprised

both individual state and federal government officials sponsored by the Ministry of Peace, who evaluated the draft law Beyani had prepared [J]. The final workshop, also in December 2019, validated the draft legislation and promoted its adoption by the federal government.

The draft Internally Displaced Persons Act, prepared by Beyani, was officially handed over to the Ministry of Peace of the Government of Ethiopia on 12 December 2019. The legislation contains two notable innovations:

- It establishes new government structures, such as the Regional Inter-Ministerial Committee, to coordinate protection and assistance as well as durable solutions to IDPs at federal government-level.
- It establishes a “whole-of-society” approach to implementing durable solutions on a comprehensive basis for IDPs, affected populations, and returning refugees who have not found a durable solution, and solutions to issues of housing, property, and land.

In February 2020, the legislation ratifying the Kampala Convention was unanimously passed by Ethiopia’s parliament and the Kampala Convention was ratified by Proclamation 1187/2020 of 13 March 2020. The UNHCR welcomed the parliament’s decision: “*This represents a significant achievement for a country that has had to recently manage massive internal displacement within its borders*” [K]. As with South Sudan, the effect of this legislation is to protect the rights of Ethiopia’s estimated 1.78 million IDPs - one of the world’s largest IDP populations - many of whom have been cut off from their usual support networks and livelihoods, finding themselves in dire need of humanitarian assistance [K].

Beyani’s continuing research standing has also been recognised by his appointment as member of the UN Advisory Expert Group to the UN Secretary General’s High-Level Panel on Internal Displacement in 2019 and to the UN Fact-Finding Mission on Libya 2020. The task of the High-Level Panel is to formulate solutions for IDPs to be used by the UN. The Fact-Finding Mission on Libya is mandated to investigate violations of human rights and international humanitarian law in Libya from 2016, including those of migrants and IDPs.

5. Sources to corroborate the impact (indicative maximum of 10 references)

[A] Human Rights Council discusses extrajudicial and summary executions and internally displaced persons, Office of the High Commissioner of Human Rights, 12 June 2014.

[B] Supporting statement from Office of the Undersecretary, Ministry of Humanitarian Affairs and Disaster Management, Republic of South Sudan, 17 February 2021.

[C] IDP Law and Policy workshop and validation event, Juba, South Sudan, 14-16 August 2018.

[D] Beyani, C., Kulang, G. P., and Mwebi, R. (2020). The potential of South Sudan's national law on protection and assistance to IDPs. *Forced Migration Review*, 65, pp. 64-66.

[E] “Government receives draft IDPs legal framework”, *Juba Monitor*, 1 March 2019

[F] Key notes from the Minister of Humanitarian and Disaster Management, 21 June 2019; Deposition of Instrument of Ratification of the 2009 AU Kampala Convention on Internal Displacement by South Sudan, 21 June 2019; Laws of South Sudan: Protection and Assistance to Internally Displaced Persons Act, 2019.

[G] UNHCR welcomes South Sudan's accession to international convention to protect internally displaced, UNHCR UK, 14 June 2019.

[H] Supporting statement from Director General, Early Warning and Durable Solutions, Ministry of Peace, Federal Democratic Republic of Ethiopia, 22 March 2021.

[I] Supporting statement from UNHCR Representative, Office of the United Nations High Commissioner for Refugees, 22 March 2021.

[J] Ethiopia in Process to Ratify Kampala Convention, *Ethiopian News Agency*, 7 December 2019.

[K] UNHCR welcomes Ethiopia's ratification of Kampala Convention, UNHCR UK, 14 February 2020.