

Research impact: making a difference

Protecting the human rights of refugees and displaced persons

LSE research applied to treaties, constitutions and international norms helped to protect the human rights of refugees and displaced persons

What was the problem?

Arrangements for protecting refugees invariably end up translating universal human rights into standards and norms that are specific to refugees.

Although the United Nations recognises freedom of movement as a universal human right, international and domestic laws often interpret this freedom — if only implicitly — in a way that denies refugees the full panoply of human rights and freedoms.

Thus one of the fundamental challenges for those endeavouring to develop and advance national and international norms for protecting refugees and displaced persons is ensuring that they are not deprived of the human rights that individuals in peaceful and settled populations tend to take for granted.

What did we do?

Over the past decade, LSE Associate Professor of International Law Dr Chaloka Beyani has used his research to help in the formulation of treaties and constitutions in Africa and in protecting the rights of refugees and especially of internally displaced persons.

In 1999–2000, alerted to the fact that many people responsible for Rwandan genocide had infiltrated refugee camps in Tanzania and the Democratic Republic of the Congo, Beyani agreed to chair a research project investigating the application of the 1951 United Nations Refugee Convention denying refugee status to those who have committed war crimes, crimes against peace or crimes against humanity.

Beyani's report to the International Criminal Tribunal for Rwanda reaffirmed the case for excluding from refugee protection those who have committed international crimes. It led to the redrafting in 2003 of the United Nations High Commissioner for Refugees' guidelines on exclusion from refugee protection.

In subsequent years, Beyani investigated the role that international law plays in a variety of contemporary controversies. References to many of these appear in his *Collected Essays on the Use of International Law* (2013). Through the Pilkington Trust he received funding from the Ford Foundation to produce a guide on using the African human rights system to protect the rights of refugees, also published in 2013.

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The contribution of Beyani's research on displaced persons was recognised in his appointment in 2010 as United Nations Special Rapporteur on the Human Rights of Internally Displaced Persons. In this ongoing role he undertakes field research and produces official reports, which are presented each year to the United Nations (UN) Human Rights Council and the General Assembly.

Beyani's expertise in international human rights law has led to his practical involvement in helping African nations draft new constitutions. For example, the African Union Panel of African Eminent Personalities, led by former UN Secretary-General Kofi Annan, invited Beyani to participate in drafting Kenya's new constitution, after the turbulent presidential elections in 2007 had failed to produce a clear winner. He served in Kenya from 2009 to 2010 while on sabbatical from LSE, helping to draft the constitution and undertaking civic education across Kenya. He is performing a similar role in Zambia and South Sudan.

What happened?

Beyani's impact on the law relating to refugee protection is both distinctive and wide-reaching.

The research he published in 2000 as Human Rights Standards and the Free Movement of People within States underpins the African Union Convention for the Protection and Assistance of Internally Displaced Persons, generally known as the Kampala Convention. This Convention was the first to create binding obligations on signatories for protecting and assisting persons displaced within states by human rights violations, generalised violence, armed conflict and natural or human-provoked disasters. It replicates some of the criteria Beyani had set out earlier for determining the rights of internally displaced Africans to bring actions against their states of origin.

From 2004 to 2009 Beyani also assumed a lead role in the African Union's treaty-making process, which resulted in the Kampala Convention's adoption in 2009. When it came into force in 2012, it had been fully ratified by 15 African states.

From 2004 to 2006, Beyani also led the treaty-making process of Africa's intergovernmental International Conference of the Great Lakes Region, which resulted in the region adopting its Pact on Security, Stability and Development. The Pact aimed to end conflict in the region, where five states had recently gone to war.

“Chaloka Beyani ... has not only been the key drafter of the Great Lakes Protocol on Internally Displaced Persons but is currently also involved in drafting and negotiating the planned African Union Convention on internal displacement in Africa”

**Walter Kälin, Representative,
Representative of the UN
Secretary-General on the
Human Rights of Internally**

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Since it was agreed in 2006, foreign ministers of the region have used the Pact as the basis for their biannual meetings to examine issues relating to peace, security and development and to make recommendations to their Heads of State. In August 2012, for instance, the Pact underpinned ministers' attempts to find a solution to the conflict in the eastern part of the Democratic Republic of the Congo.

Beyani has increasingly applied his expertise and research to the actual drafting of protocols, such as the Great Lakes Protocols, and of international norms. For instance, he was among a team of experts appointed by the ad hoc International Commission on State Intervention and Sovereignty to formulate the 'responsibility to protect'. Beyani's particular task was to examine 'state sovereignty' and 'intervention' in international law. His findings were reflected in the eventual wording of the Responsibility to Protect, which was endorsed by the UN's World Summit of 2005:

“Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means.”

In 2011 the UN Security Council invoked the Responsibility to Protect in relation to Libya, authorising 'all necessary measures' to protect civilians, and the Ivory Coast, where the Council reaffirmed its 'strong commitment' to the country's 'sovereignty, independence, territorial integrity and unity'.

Dr Chaloka Beyani

Chaloka Beyani is an Associate Professor of International Law in the Law Department. He is also the United Nations Special Rapporteur on the Human Rights of Internally Displaced Persons. Chaloka is a recognized international and United Nations expert on internally displaced persons, population transfers, mercenaries and private military companies, sexual and reproductive health, the human rights based approach to development, climate change, making treaties, and making constitutions. He is currently a member of the UK Foreign Secretary's Advisory Group on Human Rights.

Email: c.beyani@lse.ac.uk

Webpage: <http://www.lse.ac.uk/collections/law/staff/chaloka-beyani.htm>

<http://www.lse.ac.uk/researchImpact>

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