

The Protection Agenda

For Cross-Border Displaced Persons in the Context of Disasters and Climate Change

In 2012, Norway and Switzerland teamed up with other countries and launched the “Nansen Initiatives”. The core idea of this initiative was to reach a consensus on key principles and elements to better address the needs of people who are displaced and across borders by disasters.

The outcome of this Nansen Initiatives is the “Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change” (here we call as Protection Agenda), endorsed by a global intergovernmental consultation on 12-13 October 2015 in Geneva, Switzerland. The consolidated outcome (Protection Agenda) is made through a series of regional intergovernmental consultations and civil society meetings convened by the Nansen Initiative was endorsed by 109 States and published later on. The adopted Protection Agenda spells out the following priorities:

1. Protection agenda for cross-border disaster-displaced persons

Providing protection abroad to cross-border disaster-displaced person can take two forms. States can either admit such persons to the territory of the receiving country by allow them to stay at least temporarily or they can refrain from returning foreigners to a disaster affected country who were already present in the receiving country when the disaster occurred. In both situations, such humanitarian protection is usually provided temporarily, giving rise to the need to find lasting solutions for them.

a. Admission and Stay of Cross-Border Disaster-Displaced Persons (Present international and national context)

International law does not explicitly address whether and under which circumstances disaster displaced persons shall be admitted to another country, what rights they have during their stay, and under what conditions they may be returned or find another lasting solution . However, a number of States have admitted disaster displaced persons relying upon national legislation or the discretionary power of migration authorities. In some cases they have also based their decisions on applicable refugee law.

b. Non-Return of Foreigners Abroad at the Time of a Disaster (Present international and national context)

Citizens and permanent residents of a disaster-affected

What is Protection Agenda?

This agenda uses “protection” to refer to any positive action, whether or not based on legal obligations, undertaken by States on behalf of disaster displaced persons or persons at risk of being displaced that aim at obtaining full respect for the rights of the individual in accordance with the letter and spirit of applicable bodies of law, namely human rights law, international humanitarian law and refugee law.

While highlighting the humanitarian nature of such protection, the agenda does not aim to expand States’ legal obligations under international refugee and human rights law for cross- border disaster-displaced persons and persons at risk of being displaced.

The purpose of this agenda is to enhance understanding, provide a conceptual framework, and identify effective practices for strengthening the protection of cross-border disaster-displaced persons.

country may be abroad when a disaster hits. In particular, if they were required to leave the country or face deportation under applicable migration law, such persons may face a real risk to their life and safety or very serious hardship linked to the disaster upon return to their country of origin or habitual residence. In this and other situations, some States have refrained from sending such persons back to their country of origin or former habitual residence during and in the aftermath of a disaster, or allowed them to extend their stay, for reasons of international solidarity and grounded in humanitarian considerations.

c. Finding Lasting Solutions for Cross-Border Disaster-Displaced Persons

Admission, stay and non-return of cross-border disaster-displaced persons usually is granted on a temporary basis. When such temporary measures come to end, displaced persons will need to find a solution that allows them to rebuild their lives in a sustainable way either in their country of origin, or in some cases, in the country that received them or in exceptional cases in a third country .

Ensuring cooperation between countries of origin and receiving countries and where relevant with international organizations, to ensure that returnees are received with respect for their safety, dignity and human rights and under conditions that allow them to find lasting solutions to their displacement .