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The Diaspora's Role in Migrant Protection:

A case study of third-country nationals in Ukraine

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Summary

Freedom of movement is a fundamental right enshrined in international law.[1] Accordingly, core international human rights instruments constitute a framework of action and guidelines for migration policymakers.

This brief explores the opportunities and challenges for more structured diaspora engagement in migrant protection, as well as looks at the provision of safety nets at various stages of the journey through early warning interventions, advocacy, direct assistance, coordination and information sharing. Settled migrants—often referred to as diaspora populations—are an untapped resource in efforts to support migrant protection. The effectiveness of this resource is highlighted through this case study of the migration situation prevailing amongst African students who have fled Ukraine since the Russian invasion in February 2022.

This paper suggests two placeholders for a concerted, 360-degree vision for the global efforts and markers shaping national commitments to migrant protection, alongside its global migration agenda, and shows the important role migrants play as 'powerful drivers of development' in countries of origin, transit and settlement.

Firstly, the upcoming International Migration Review Forum (IMRF), to be convened in May 2022 under the auspices of the UN General Assembly in New York, is the first review of the Global Compact for Migration (GCM) and presents a monumental opportunity for Member States to reaffirm and rethink their cooperation on international migration in all its dimensions. Migrant protection has a domino effect on several objectives.

Secondly, and most urgently, managing the prevailing crisis of mixed migration movements (e.g., diverse groups of people on the move fleeing Ukraine) to countries of transit and destination will reset the tone and carve out critical lessons to ensure no one is left behind, in alignment with the 2030 Agenda for Sustainable Development and the World Humanitarian Summit Core Responsibilities (see Appendix 2).

[1] Article 13 of the UN Declaration of Human Rights states: '(1) Everyone has the right to freedom of movement and residence within the borders of each state. (2) Everyone has the right to leave any country, including his own, and to return to his country'. (UN General Assembly, 1948).

Key recommendations

For international organisations/institutional humanitarian partners

- Establish and/or support mechanisms for the effective collection of data on populations on the move
- Establish a diaspora focal point based at the organisation's headquarters
- Assist diaspora organisations' access to funding opportunities by developing diaspora-friendly calls for grant applications donations than direct financial support.

For national human rights bodies

- Make National Referral Mechanisms (NRM) operational, practical and visible in order to facilitate reporting by diaspora individuals and organisations on protection concerns for emigrants and transiting migrants.
- Provision of timely, culturally appropriate and accessible information for diaspora organisations and other humanitarian actors on the legal frameworks around migrant protection
- Enforce a monitoring mechanism to ensure that NRM addresses concerns around migrant protection.

For policymakers in transit and settlement countries

- Ensure TCN protection needs in Ukraine are given equal weight to Ukrainian nationals fleeing the conflict.
- Address issues of discrimination facing TCNs seeking protection in countries neighbouring Ukraine.
- Facilitating the support of diaspora organisations in the response to the situation in Ukraine.
- Establish enhanced direct coordination with communities and increased synergies and partnerships with relevant stakeholders.

For diaspora organisations

- Extend and deepen outreach activities in transit countries and develop referral mechanisms for vulnerable migrants in coordination with service providers
- Support qualitative data collection efforts on migrants/third-country nationals
- Extend outreach to transnational communities.
- Provide an institutional base for knowledge sharing, coordination, and communication among various stakeholders.

Framing Diaspora's Role in Migrant Protection

With lesser recognition and enforcement, but of significant importance,[2] the Global Compact for Migration (GCM)—adopted in 2018 by most UN Member States—outlines common goals, 23 objectives and core principles to address all dimensions of international migration. Several GCM objectives speak to migrant protection, social protection and other objectives that have direct implications on the role of diasporas and are imbedded in a human-rights, gender-responsive and child sensitive approach.

In addition to several legislative instruments often domesticated in national jurisdictions, there is also a global consensus represented by the UN's 2030 Agenda for Sustainable Development (SDGs 2030), specifically target 10.7, in which the Member States commit to international cooperation to facilitate safe, orderly and regular migration. However, despite all such efforts, migrants exercising their freedom of movement or fleeing adverse drivers or structural factors are increasingly subject to a range of human rights violations; the most vulnerable being women and children.

Lack of legal identity and regular migration pathways

Legal identity and regular pathways are the key elements in migrant protection, and access to these elements is crucial to ensuring migrants have safe passage to their destination countries. With fewer options for regular migration, irregular migration or unofficial channels become the most viable options for people on the move, leading to increased risk of human rights violations both during their journey and at their destination. Primo—i.e., not having legal identity and documentation—increases this vulnerability.

Some transit countries are creating political infrastructure to protect migrants. For example, Ecuador passed the Human Mobility Law in 2017, 'which regularizes the situation of people on the move – including refugees, asylum seekers, stateless persons and victims of trafficking' (UNHCR, 2017). Other countries, in contrast, are acting in a manner to cause human rights violations against migrants. Libya, for instance, has been using detention centres to control transitory migration flows towards Europe, with human rights violations frequently documented at these sites (Aljazeera, 2021). In addition to Libya, other countries with reports of human rights violations also tasked by the European Union with detaining migrants include Albania (Global Detention Project, 2020), Serbia (Global Detention Project, 2021) and Turkey (Global Detention Project, 2021a).

2 The GCM is a non-binding framework, also known as the Marrakech Compact on Migration, based on the interdependent guiding principles of people-centred, international cooperation, national sovereignty, rule of law and due process, sustainable development, human rights, gender-responsive, child-sensitive, and the whole-of-government and whole-of-society approach.

Furthermore, in East Africa, migrants in mixed migration flows remain vulnerable to inadequate protection (Horwood and Hooper, 2016). These dangers are posed not only by criminal gangs involved in smuggling and trafficking, but also by migrants' vulnerability to human rights abuses and exploitation by local authorities, host communities and other migrants (Collyer et al., 2015).

Lack of access to information and basic services

Other significant gaps that must be addressed in order to support migrants on their journeys include access to information and basic services as well as the lack of migrant-inclusive societies. One of the GCM's ambitions is to 'provide a comprehensive menu of options for States from which they can select policy options to address some of the most pressing issues around international migration' (IOM, n.d).

Due to their knowledge of host, transit and origin nations, diasporas can help fill these gaps. Diasporas provide vital support to migrants through participating in various migrant protection and assistance activities, including the provision of legal assistance, food, shelter, and financial resources. In Colombia, for instance, the Venezuelan diaspora group Asovenezuela assists Venezuelan migrants in applying for the 10-year Temporary Protection Status,[3] allows them to work and access social protection.

During times of humanitarian crisis, diasporas also offer support to third country nationals fleeing danger zones and others unable to leave dangerous situations. For example, members of the Afghan diaspora have been supporting Afghan refugees from before the 2001 NATO intervention to the end of the West's 20-year mission in the country, with the fall of Kabul in August 2021. In the UK, the Afghan and Central Asian Association (ACAA) has been the main point of contact for new Afghan refugees, as it provides them material assistance, immigration advice, and integration support. ACAA also raises funds to provide humanitarian assistance to those unable to leave Afghanistan.

[3] In 2021, the Colombian government introduced the Temporary Protection Status for migrants, which can potentially grant 1.7 million Venezuelans a 10-year visa to live and work in Colombia.

The Crisis in Ukraine

The current situation in Ukraine has created one of the worst refugee crises in recent history (Desilver, 2022). According to the UNHCR, 4,441,663 people have fled Ukraine since 24 February 2022 (UNHCR, 2022), with another nearly 7 million displaced internally (Global Protection Cluster, 2022).

The Ukraine diaspora has played an active role in the humanitarian response to this crisis. According to Diaspora Emergency Action and Coordination (DEMAC) there are over 1,000 Ukrainian diaspora organisations worldwide (DEMAC, 2022). Within the first five days of the war, the Ukrainian diaspora had raised over $10.8 Million USD to support humanitarian actives in Ukraine and have raised over $63 Million USD as of March 2022 (DEMAC, 2022). Additionally, Ukrainian diaspora organisations have provided support for Ukrainians fleeing the country in the areas of health, food security, education, and protection. Diaspora organisations are also holding donation drives and shipping material goods to Ukraine to assist in the humanitarian response (Iwanek, 2022). In some areas, Ukrainian diaspora organisations have been created in response to the Ukraine crisis, with at least six new organisations being formed since February 2022 (DEMAC, 2022). Ukraine diaspora in EU countries will most likely sponsor relatives who are fleeing Ukraine (Walsh and Sumpton, 2022). Some members of the Ukrainian diaspora are responding to the crisis politically by holding protests, raising funds for military support, and returning to Ukraine to fight in the war (Lu, 2022).

International organisations and governments are also offering support for Ukrainian citizens fleeing Ukraine. The European Union has activated its Temporary Protection Directive (TPD) which allows Ukrainian citizens to stay in EU nations for up to three years without having to apply for asylum. Rights under the TPD include a residence permit, housing, medical assistance, and access to education for children (European Commission, n.d.) TCNs are also eligible for TPD under EU law. However, "each EU member state will apply TPD's standards based on their own national immigration systems and legislation" (Shabaka, 2022), which means TCNs may not be eligible for the TPD in certain countries.

European countries who are not a part of the EU or do not abide by EU laws have created other measures for Ukrainian refugees. For example, the UK has created the Ukraine Family Scheme and Home for Ukraine sponsorship scheme to help Ukrainians who are fleeing Ukraine. The Ukraine Family Scheme allows Ukrainian citizens and their immediate family to join UK-based family members

for up to three years. Homes for Ukraine allows individuals, businesses, charities, faith and community organisations to sponsor Ukrainian refugees for 6 months. Denmark's Special Act, which is similar to the EU's Temporary Protection Directive, allows Ukrainian citizens to reside in Denmark until 2024, along with the right to social benefits, education, and accommodation (European Commission, 2022)

African diaspora supporting third-country nationals in Ukraine

Ukraine had been home to over 76,000 foreign students (Ali, 2022), over 16,000 of which came from African countries (Obulutsa & Inveen, 2022). However, some government sources and anecdotal evidence from diaspora support efforts show that these numbers could be underestimations. This discrepancy is likely largely due to the limited, ineffective and unintegrated registration system for foreigners in Ukraine, by either their respective embassies/consulates or the Ukrainian authorities. While a significant number of African students and permanent residents have left Ukraine, some have resorted to staying and 'waiting it out' in the country's safer regions due to the difficulty of leaving or moving elderly family members. These numbers, still, remain unknown; it is only when a call for help confirming nationality and location in Ukraine is received by a volunteer that those who remained behind are accounted for.

The IOM's Displacement Tracking Matrix (DTM) survey in Moldova shows that, as of 27 March, of the reported 381,448 arrivals from Ukraine, 34,713 had been third country nationals. As of 9 March, Slovakia had 13,516 TCNs according to Slovak border guards, and these arrivals are not static, as people continue to move further into the EU or head to the UK, US, Canada or return to their countries of origin. The table below sets out protections for Ukrainians and TCNs fleeing Ukraine

For African students that left Ukraine, reports continue to surface on the various forms of discrimination and racism they face (OHCHR, 2022). Such encounters range from interactions at border crossing, with immigration services where they were denied entry into neighbouring countries, and on public transportation where some were physically prevented from boarding trains that were leaving the country (Akinwotu and Strzyżyńska, 2022) ; all this while these young students, mostly in their 20s, try to figure out their onward journeys in 'safer', frontline and European Union Member States. Indeed, there are also numerous cases of detention and while a few have been called out, many TCNs—Africans included—remain detained in facilities in Poland without charge (Bulman and White, 2022). The evacuation process was difficult for African students because African governments did not begin their evacuation efforts until several days after the war started. This meant African students had to find their own ways to evacuate. The first African students who were successfully evacuated were Ghanaian students who arrived in Ghana on 1 March, five days after the Russian invasion (France24, 2022).

Support from the IOM in such situations seems only to scrape the surface, but African diaspora groups and support organisations have addressed this issue head-on, even tending to detainees, sometimes without consular support. Some students have also been detained, stamped out, and deported from EU Member States for administrative errors.

The combination of racism, lack of evacuation assistance, and issues crossing borders for African students spurred the African diaspora to action. Some African diaspora organisations have worked with student, local and international organisations to create an ecosystem of support for students fleeing, crossing borders and arriving to various countries. However, this has largely taken place through personal networks, as the African diaspora mobilised their networks across Europe and around the world to provide Africans in Ukraine with humanitarian assistance.

Protections for people fleeing Ukraine

	Ukrainian	TCNs
EU	Temporary Protection Directive (TPD)	Temporary Protection Directive (TPD)
UK	UK Family Scheme Homes for Ukraine	N/A
Romania	TPD	N/A
Denmark	Special Act	N/A
Germany	TPD	TPD
Hungary	TPD	Must apply for asylum
Czech Republic	TPD	TPD
Poland	Special Law	TPD

Data from the European Council on Refugees and Exiles and Fragomen. Please see bibliography for further details.

Online tools for protection

Social media has been integral to diaspora organising and providing support to Africans in Ukraine. Notably, a virtual network of African diaspora and allies was formed only days into the crisis and coordinated by the Global Research Forum on Diaspora & Transnationalism, Kenyan Women in Germany (KWIG e.V), the Association of Kenyans in Norway, and later the Nigerians in Diaspora Organisation (NIDO). Other groups, including the Zimbabwe Diaspora National Building Initiative (ZDNBI) and Humanitas Afrika (Czech Republic), also collaborate with the network.

This network drew on local organisational support (e.g., from Safebow, the Warsaw School of Economics, and German and Hungarian-based organisations), additional resources in Ukraine, and access to facilities in Poland, Germany and Hungary to help students from various African countries. The network was instrumental in providing information to students and parent associations; coordinating with African embassies and consulates covering Ukraine from Germany, Poland, and Russia; and raising concerns around evacuation efforts, international recognition of stranded foreign students, legal pathways and repatriation support. This mainly targeted the European Union, UN system (e.g., the IOM, UNHCR, UN Resident Coordinators), African Union, African First Ladies, African governments and humanitarian organisations (e.g., ICRC, MSF, and the Red Cross).

The network also shared information for extending advocacy and support across the diaspora (e.g., through Shabaka, ADEPT, and Netherlands-based diaspora), at fora on the Ukraine crisis (e.g., the Global Diaspora Confederation and local meetings with municipalities), and at thematic and regional conferences (e.g., the European Anti-Racism Summit 2022 and the African Non-State Actors Regional Consultation to IMR).

Nigerian students wait at the platform in Ukraine's Lviv railway station on Feb. 27.

Diaspora organisations have also collaborated with other grassroots organisations, particularly African student-led organisations instrumental in aiding Africans in Ukraine, including TANPOL (Tanzanian students in Poland) and Black Women for Black Lives (BW4BL), which was created from a tweet from a former student fleeing Ukraine. Other organisations, such as Black Foreigners in Ukraine and Diaspora Relief, have fundraised (through GoFundMe and other mechanisms) to fund additional transport, housing, food, and other needs. Coordination remains central to maximising efforts—an instrumental role for diasporas.

With regards to regular migration in Europe, it is clear from the temporal rules of European and frontline state protection schemes that TCN eligibility is a difficulty. However, it is often only at the decision-making stage that it becomes clear that some countries are completely inaccessible to TCN students with temporal residence in Ukraine (i.e., TCNs with permanent Ukrainian residence or a Ukrainian spouse/family stand a better chance). In terms of asylum, that door is not open, even though many students report being 'recommended' to apply for asylum at the decision stage and asylum does not fit into a pathway. Indeed, student pathways have stringent conditions attached to language and financial commitments.

In parallel, students fleeing Ukraine are facing difficulties transferring to universities in other countries due to problems accessing their transcripts. For most, Germany is the preferred resting spot, as there is no legal requirement to register oneself until 31 August 2022. Germany, in addition, also remains open to receiving those in irregular situations in Ukraine, unlike other countries. For students who wish to return to their home countries, diaspora organisations have relevant expertise and guidance for IOM repatriation programmes in Germany, Poland, Romania and Slovakia.

Diaspora organisations use their expertise, knowledge and networks to solicit official legal information for individual cases and organise information sessions for students on TCN legal resources, education opportunities, career advice, repatriation and mental health. Other support platforms targeting the information needs of students in Ukraine include Black in Ukraine, the French equivalent NoirsenUkrain, and Together4One, which are all volunteer platforms providing information on education, visas and jobs. Such groups also give a breakdown of the regulations and share experiences of the complex schemes; and diaspora members participate and support these efforts. Through Telegram chat groups, organising sessions on Clubhouse, Twitter Spaces, and Telegram (Bannister, 2022; Thorbecke, 2022), the ecosystem of support for Africans in Ukraine maximises digital technology with volunteers based in the Balkans, Europe, the Americas and Australia. Africans in Ukraine have used social media to share the gravity of their situation and seek assistance via advocacy, evacuation, in-country support and post-Ukraine scenarios. The African diaspora has also used mainstream media in both Europe and Africa to sensitise the world to the plight of students and share information.

Religious institutions have also served as safety networks for Africans in Ukraine. The Church of the Pentecost, a transnational Ghanaian religious institution with branches in over 100 countries,[4] has been active in helping Africans evacuate Ukraine as well as provided humanitarian assistance to third country nationals who arrived in Hungary (Klutse, 2022), Austria (Church of Pentecost, 2022), and the Czech Republic (Church of Pentecost, 2022). In Germany, the diaspora facilitated local Muslim leaders' support for TCNs during Ramadan through sharing Iftar (breaking fast) with them.

Formal diaspora organisations are also supporting Africans in Ukraine. The African-Europe Diaspora Development Platform (ADEPT) has a network of over 200 African diaspora organisations and individuals based in Europe. In addition to raising awareness about the plight of Africa migrants in or displaced from Ukraine, some ADEPT members in Eastern European countries are working to provide humanitarian assistance to both Africans in Ukraine and those who left. African diaspora support for Africans in Ukraine is a real-time example of how diasporas can fill gaps in humanitarian assistance and provide support quickly, safely, and effectively to those in need. As the situation remains dynamic, students continue to move around exploring opportunities (e.g., as far as Turkey), support organisations and volunteers are already peeling off and diaspora organisations remain for the medium to long term to support and advocate for better migrant protection measures.

[4] As of 2019

Recommendations

For international organisations/institutional humanitarian partners

- Establish and/or support mechanisms for the effective collection of data on populations on the move. Given the resources and relations with state and non-state actors, as well as the need to protect migrants from profiteers, humanitarian organisations are best placed to support this effort, ensure that all migrants are captured in datasets, and address the needs of the most vulnerable.
- Establish a diaspora focal point based at the organisation's headquarters. This focal person can build relations with diaspora communities and, in turn, help create an information-sharing channel on basic services for migrants in origin and transit countries, such as shelter and WASH.
- Assist diaspora organisations' access to funding opportunities by developing diaspora-friendly calls for grant applications; applications that account for organisations that receive more in-kind and material donations than direct financial support.

For national human rights bodies

- Make National Referral Mechanisms (NRM) operational, practical and visible in order to facilitate reporting by diaspora individuals and organisations on protection concerns for emigrants and transiting migrants. Trust that the mechanism works is key.
- Provision of timely, culturally appropriate and accessible information for diaspora organisations and other humanitarian actors on the legal frameworks around migrant protection; they can then support migrants' exercise of their rights and lobby governments for migrant protection rights.
- Enforce a monitoring mechanism to ensure that NRM address concerns around migrant protection. The mechanism must recognise migrants' diversity and need for awareness at the local level.

For policymakers in transit and settlement countries

- Ensure TCN protection needs in Ukraine are given equal weight to Ukrainian nationals fleeing the conflict.
- Address issues of discrimination facing TCNs seeking protection in countries neighbouring Ukraine.
- Facilitating the support of diaspora organisations in the response to the situation in Ukraine.
- Establish enhanced direct coordination with communities and increased synergies and partnerships with relevant stakeholders.

For diaspora organisations

- Extend and deepen outreach activities in transit countries and develop referral mechanisms for vulnerable migrants in coordination with service providers, such as local, philanthropic and international organisations.
- Support qualitative data collection efforts on those affected—people on the move — to ensure their voices are heard and no one is left behind.
- Extend outreach to transnational communities. Embracing all diaspora and grassroots efforts, formal or informal, is a critical part of data collection and outreach to migrants. It is also important to crowdfunding and maximising efforts.
- Provide an institutional base for knowledge sharing, coordination, and communication among various stakeholders. Be cognisant of the role that diasporas play in the medium to long term (recovery to development efforts).

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p.g.8 - Bernat Armangue/AP, Published in, https://www.washingtonpost.com/lifestyle/2022/03/25/isha-sesay-african-students-ukraine/

p.g.13 - Carlos Latuff - https://twitter.com/LatuffCartoons/status/1498785568116953091/photo/1

Appendix

Appendix 1: Key Definitions and Terms

Diaspora: The International Organization for Migration (IOM) defines diasporas as migrants or descendants of migrants whose identity and sense of belonging, either real or symbolic, have been shaped by their migration experience and background. They maintain links with their homelands and each other based on a shared sense of history, identity, or mutual experience in the destination country (2019). They can also be referred to as expatriates or transnational communities (Migration Data Portal, 2020).

Migrant Protection: The Office of the United Nations High Commissioner for Human Rights defines migrant protection as all activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and spirit of the relevant bodies of law (i.e., International Human Rights Law, International Humanitarian Law, and International Refugee Law) (OHCHR, n.d.).

Third Country Nationals: According to the IOM (2019), third-country nationals (TCNs) are, in situations in which two states are concerned, any person who is not a national of either state; or, in the context of regional organisations, nationals of states who are not member states of such organisations. In humanitarian crises, this term is used to identify individuals evacuated from a country from which they are fleeing but of which they are not a national.

Vulnerability: Migrants who are unable to effectively enjoy their human rights, are at increased risk of violations and abuse, and who are accordingly entitled to call on a duty bearer's heightened duty of care (IOM, 2019).

Migrant: An umbrella term, not defined under international law, reflecting the common lay understanding of a person who moves away from his or her place of usual residence, whether within a country or across an international border, temporarily or permanently, and for a variety of reasons. The term includes a number of well-defined legal categories of people, such as migrant workers; persons whose particular types of movements are legally defined, such as smuggled migrants; as well as those whose status or means of movement are not specifically defined under international law, such as international students (IOM, 2019).

Mixed Migration: The IOM's definition of mixed migration is the main definition that is used in this document, and includes 'the irregular nature of and the multiplicity of factors driving such movements, and the differentiated needs and profiles of the persons involved. Mixed flows have been defined as "complex population movements including refugees, asylum seekers, economic migrants and other migrants". Unaccompanied minors, environmental migrants, smuggled persons, victims of trafficking and stranded migrants, among others, may also form part of a mixed flow' (IOM, 2008: 2).

Appendix 2: UN Sustainable Development Goals and World Humanitarian Summit Core Responsibilities

The 2030 Agenda for Sustainable Development is the United Nations' plan for eradicating poverty. The Agenda is supported by seventeen Sustainable Development Goals and 169 targets.

The goals and targets that align with migration, diaspora, and humanitarian work regarding African students in Ukraine are:

Goal 1: No Poverty

- Target 1.3: Implement nationally appropriate social protection systems and measures for all

Goal 4: Quality Education

- Target 4.3: Ensure equal education access to technical, vocational and tertiary education
- Target 4.4: Substantially increase the number of youth and adults who have relevant skills, including technical and vocational skills, for employment, decent jobs and entrepreneurship
- Target 4.B: Increasing student mobility

Goal 10: Reduced inequalities

- Target 10.7: Facilitating orderly, safe, regular, and responsible migration and mobility, including through the Implementation of planned and well-managed migration policies

The 2016 World Humanitarian Summit (WHS) created with five core responsibilities needed to improve humanitarian action, all of which are aligned with supporting African students during the crisis in Ukraine.

They are:

1. Prevent and end conflict
2. Uphold the norms that safeguard humanity
3. Leave no one behind
4. Working differently to end need
5. Invest in humanity

Appendix 3: Global Compact for Migration

The Global Compact for Migration is the UN global agreement on international migration. It is non-binding and consists of 23 objectives for better migration management at local, national, and global levels. The objectives that are aligned with supporting African students during the Ukraine crisis include:

- (7) Address and reduce vulnerabilities in migration
- (11) Manage borders in an integrated, secure and coordinated manner
- (14) Enhance consular protection, assistance and cooperation throughout the migration cycle
- (15) Provide access to basic services for migrants
- (17) Eliminate all forms of discrimination and promote evidence-based public discourse to shape perceptions of migration

About Shabaka

Values-driven and diaspora-led consulting and research organisation focused on diasporas' humanitarian preparedness, response and recovery.

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