

# **The UK's 'Safe and Legal (Humanitarian) Routes': From Colonial Ties to Privatising Protection**

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## **Abstract**

In this paper, we evaluate the UK's 'safe and legal (humanitarian) routes', consider how they are positioned in the post-Brexit migration regime, and how these domestic provisions compare to those underwritten by international protections. We focus in particular on the Hong Kong BN(O) and Ukraine visa schemes, which combined account for the vast majority of those arriving in the UK for the purposes of humanitarian protections since Brexit. Despite being formally presented under the same banner, as we outline the schemes have significant differences in terms of eligibility criteria, costs and rights and entitlements. Moreover, on closer inspection while they share an overarching policy vision informed by foreign policy priorities, these new provisions are underpinned by different genealogies and policy logics. While the Hong Kong BN(O) scheme is rooted in the tradition of ancestry visas and colonial entanglements, and requires that potential beneficiaries pay for protections, the Ukrainian schemes are more closely aligned with recent refugee resettlement schemes and share with them the push towards greater involvement of private and community stakeholders in humanitarian protection.

## **Key words**

Humanitarian protections; coloniality of migration and citizenship; Hong Kong BN(O); Ukraine visa schemes; refugee and asylum; temporary protections

## **Introduction**

Since Brexit, one of the most prominent political and policy issues for the UK's Conservative administration has been 'illegal migration'. The promise at the heart of Government's approach to Brexit to 'take back control' of the borders, and the subsequent repealing of EU law in the UK, paved the way for significant reform of the immigration and asylum system. We consider this in the context of two parallel and apparently opposite trends: (a) the ongoing curtailment of asylum—with measures promised and introduced since Brexit making it both harder to arrive in the UK and further restricting the terms on which people are able to claim their rights to international protection; and (b) the expansion of 'safe and legal (humanitarian) routes', government-authorised pathways into the UK for certain people deemed in need of humanitarian protections. Such 'safe and legal' routes include bespoke, nationality-specific schemes for some Afghans, Syrians, Ukrainians and Hong Kongers. To date, most beneficiaries

of these are those fleeing the ongoing conflict in Ukraine and those leaving Hong Kong following the imposition of National Security Law.

After a brief overview of the emerging post-Brexit migration and asylum regime, we will compare and contrast the new humanitarian schemes for Ukrainians and Hong Kongers. This sets the stage for our examination of the different policy genealogies and logics that underpin these schemes. On the one hand, the Hong Kong BN(O) scheme is rooted in the tradition of ancestry visas and British colonial entanglements. Further, it requires that beneficiaries pay for the protections they receive. On the other hand, the Ukrainian visas are more closely aligned with recent refugee resettlement schemes that have come to the fore since the EU's 2015-2017 'refugee crisis' and share with them the push towards greater involvement of, and transfer of responsibility towards, private and community stakeholders in providing humanitarian protection. We then consider the UK Government's rhetoric about these schemes and how these are positioned in the politics of migration and asylum. In particular, we focus on the contrast between the recipients of these protections as 'deserving' migrants, while those entering the UK via unauthorised routes are presented as 'undeserving'.

Overall, we document how the new humanitarian schemes mark a move away from the multilateral international system of humanitarian protection that emerged in the wake of World War II, towards a more transactional and utilitarian approach to humanitarianism where the UK claim for itself the right to choose who to protect, on what terms, and at what cost to beneficiaries.

### **'Safe and legal (humanitarian) routes' in the compliant environment**

In early 2021, the UK Government launched *Global Britain in a Competitive Age*, a policy paper that outlined the strategic vision and agenda for defence, security, and foreign policy. From ambitions to fully digitalise the borders, to new measures to prevent 'criminal gangs' from trafficking those seeking asylum, the securitisation of the UK's borders was front and centre in this agenda. At the same time, the review committed to expanding the UK's provisions of 'safe and legal routes', offering authorised entry to the UK for the purpose of humanitarian protection.

While the relationship between securitisation and immigration arguably has its roots in changes brought in by the Labour administration (1997-2010), this narrative of securitisation took on new form when the Conservatives returned to power as part of the Conservative-Liberal Democrat coalition (2010-15). Under Theresa May, the Home Office embarked on a project to make the UK known for being 'tough on illegal immigration', branding this as the 'Hostile Environment'. From the infamous 'Go Home' vans to the introduction of right to work and rent checks based on an individual's ability to produce documents attesting to their right to residence, bordering was brought into daily life in new ways.<sup>1</sup> This agenda also contributed

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<sup>1</sup> See for example H. Jones, Y. Gunaratnam, G. Bhattacharyya, W. Davies, S. Dhaliwal, K. Forkert, E. Jackson and R. Saltus *Go home?: The politics of immigration controversies*, Manchester: Manchester University Press, 2018; N. Yuval-Davis, G. Wemyss and K. Cassidy, *Bordering*. London: John Wiley & Sons, 2019; M. Griffiths and C. Yeo 'The UK's hostile environment: Deputising immigration control'. *Critical Social Policy*, Vol. 41 No. 4, 2021, pp.521-544.

to the mainstreaming of anti-immigrant sentiments, which were then capitalised upon during the 2016 Brexit Referendum. One notable example was the Leave.EU campaign turning the blame on the EU for having ‘failed us’ during the 2015 Mediterranean border crisis.<sup>2</sup>

Following Brexit, the ‘Hostile Environment’ was rebranded as the ‘compliant environment’, further embedding the narrative of legal and illegal migration within the UK’s migration governance. The tagline of a ‘fair and generous’ approach to immigration, repeated by successive Home Secretaries, has been used as justification for new provisions that further restrict who can migrate to the UK and on what terms. This includes who can claim asylum alongside a notable stratification of rights for those migrating to the UK. These measures are further supported by a longstanding culture of suspicion and disbelief, from the general scapegoating of migrants to political discourses that pitch ‘genuine’ refugees against ‘economic migrants’ exploiting the UK asylum provisions.

One of the main features of the post-Brexit migration and asylum regime is the criminalisation of those crossing the Channel in small boats for the purposes of claiming asylum. Reconstituted as an ‘unauthorised’ route, ongoing legislative and policy reforms have been seeking to make those arriving in this way ineligible to claim asylum in the UK. Such criminalisation is presented as grounds for deportation to a third country, as laid out in the much-contested Rwanda deportation plan. What this illustrates, albeit briefly, is a general direction of travel that places increasing restrictions on who can claim asylum as a consequence of entering the UK without authorisation.

The contrast to those arriving via unauthorised routes is reinforced by the naming of certain provisions as ‘safe and legal routes’. We argue that the discursive framing of these ‘authorised’ humanitarian protections further contributes to the Government’s construction of a moral panic relating to refugees and asylum seekers. Simply, framing some people and routes as ‘illegal’ and ‘unauthorised’, but also ‘unsafe’, the Government present themselves as having a moral obligation to ‘save’ those who travel on small boats from human smugglers, their legislation and policy presented as the necessary means through which to do this.

### **Who is allowed to come to the UK through the ‘safe and legal routes’?**

The previous section outlined the significance of the new humanitarian pathways in the context of the ongoing politicisation and post-Brexit reform of migration and asylum. We turn here to consider who is coming to the UK through these routes, and on what terms. This examination makes clear how these provisions diverge from those offered by the UK’s asylum regime, while also signalling differences in the rights and protections offered to populations on the grounds of nationality.

The majority of those arriving in the UK through the managed humanitarian channels are those entering the UK via the Hong Kong BN(O) and Ukraine visa schemes. Together these

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<sup>2</sup> Sigona, N. 2016. ‘There is no refugee crisis in the UK’, Postcards from, 12 April 2016. Available at: <https://nandosigona.info/2016/04/12/there-is-no-refugee-crisis-in-the-uk/>

schemes accounted for 387,478 of the 481,804 visas offered through the ‘safe and legal routes’ between 2015 and 2022.<sup>3</sup>

Until the launch of the HK BN(O) visa in 2021, arrivals via the resettlement schemes—which were a limited offer to some Syrians and Afghanis—were negligible. This meant that it was relatively easy for the proponents advocating for more legal routes for asylum seekers to point out how the UK offer was insufficient in the context of 89.3 million individuals worldwide forcibly displaced as a result of persecution, conflict, violence, human rights violations or events seriously disturbing public order.<sup>4</sup> Yet, with the introduction of these two uncapped schemes, the numbers taking up the offer of humanitarian protections grew exponentially.

As we discuss in further detail later in this paper, these routes are not underpinned by the international protection framework. Instead, they are domestically determined, existing in parallel to the asylum regime. They offer a way for those from certain countries (and under certain conditions) judged as in need to humanitarian protection to live temporarily or more permanently in the UK.

Beyond the differences in the volumes of beneficiaries to each of these nationality-specific routes, the schemes vary in respect to eligibility criteria and terms of residence in the UK. We draw out some of the ways in which provisions which nominally share a common purpose as ‘safe and legal routes’ differ from one another in law and practice.

### *The Hong Kong BN(O) visa*

The HK BN(O) Visa was launched on 31 January 2021, exactly one year after the UK’s withdrawal from the European Union. No limits were placed on the numbers of people who could be granted visas through this scheme. The visa was explicitly presented as offering humanitarian protections.

It was brought in following the UK Government’s judgement that the introduction of National Security Law in Hong Kong SAR breached the ‘one country, two systems’ approach that had been agreed through the 1984 Sino-British negotiations on the future of Hong Kong. The visa was introduced alongside a set of measures sanctioning the People’s Republic of China (PRC) on the grounds of human rights abuses, amid rising tensions between the UK and PRC.

The initial framing of the HK BN(O) visa restricted access only to those eligible for British National Overseas (BN(O)) status and their dependents. This is the status in British nationality legislation that was granted to the people of Hong Kong in 1997, when sovereignty of the former British colony was transferred to the People’s Republic of China. While this route was initially out of reach to those born after 1997 who were no longer dependents of those eligible for BN(O) status, subsequent changes have relaxed this condition, and from Autumn 2023,

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<sup>3</sup> Home Office *Policy Paper: Safe and Legal Routes*, 2023. Available online at:

<https://www.gov.uk/government/publications/illegal-migration-bill-factsheets/safe-and-legal-routes>

<sup>4</sup> UNHCR, *Global Trends Report*, 2021. Available online at: <https://www.unhcr.org/uk/media/global-trends-report-2021#:~:text=At%20the%20end%20of%202021,events%20seriously%20disturbing%20public%20order.>

the scheme was extended so that those with one BN(O) parent were able apply in their own right.

Beyond demonstrating eligibility for BN(O) status, applicants are required to demonstrate that they can accommodate and support themselves in the UK for six months, pay the associated visa fees (at time of writing, £180 per applicant for a 30-month visa; £250 for a 5-year visa), and the Immigration Health Surcharge (HIS) (at time of writing £1560 for 30 months and £3120 for five years). These fees set the HK BN(O) visa apart; the UK's refugee protections and other humanitarian routes are fee-free and waive the HIS. As such, the HK BN(O) visa sets a precedent in paying for protections.

Unlike those entering through standard immigration routes, applicants are not required to prove a minimum or guaranteed income, nor do they have to apply from outside the UK. While the visa allows no recourse to public funds (NRPF), under certain conditions—such as immediate risk of destitution, and immediate concerns over the welfare of a child—BN(O) visa beneficiaries may apply for the NRPF to be removed. BN(O) visa holders have the right to live, work and study in the UK, and their children qualify for state-funded schooling. While those in the UK via other humanitarian routes and refugee status are eligible for home fees for tertiary education, as the HK BN(O) visa is a route to settlement, Hong Kongers are treated and charged as international students.

Between the introduction of the scheme and the end of September 2023, 184,700 visas were granted, to both Hong Kongers already in the UK and those newly arriving.<sup>5</sup> Significantly, this is designed as a route to settlement, and after five years residence, BN(O) visa holders can apply for Indefinite Leave to Remain (ILR). After a year of ILR, beneficiaries are eligible to apply to become British citizens.

### *The Ukraine visa schemes*

The UK government's response to the displacement brought about by Russia's invasion of Ukraine in February 2022 was out of step with the rest of Europe. While Ukraine's neighbouring countries kept their borders open and visa-free to those seeking refuge, and other EU states facilitated onward movement to relieve pressure on the border regions, the UK granted only a few hundred visas while thousands of applicants were kept waiting in France and elsewhere in Europe. The process was obstructed by the UK government's unwillingness to waive visas for Ukrainians – including for those with relatives living and working in Britain.<sup>6</sup> Rather than being an exception, the delays and confusion were symptomatic of what several MPs, as well as peers, civil society organisations and the UNHCR

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<sup>5</sup> Home Office *National Statistics: Safe and legal (humanitarian) routes to the UK (Updated 7 December 2023)*, 2023. Available at: <https://www.gov.uk/government/statistics/immigration-system-statistics-year-ending-september-2023/safe-and-legal-humanitarian-routes-to-the-uk#british-national-overseas-bno-route>

<sup>6</sup> See N. Sigona and M. Benson 'UK government's response to this refugee crisis is too little, too confused, too slow', *ODI Blog*, 9 March 2022. Available at: <https://odi.org/en/insights/uk-governments-response-to-refugee-crisis-is-too-little-too-confused-too-slow/>

have characterised as an increasingly hostile attitude to the plight of refugees by the British government.

The Government's initial approach to Ukrainian refugees was to make limited and targeted concessions, initially restricted to those with family ties to the UK. Launched on 4 March 2022, the Ukraine family scheme was criticised as falling short of the protections offered by the EU following the European Council's activation of the Council Directive 2001/55/EC (Temporary Protection Directive), which was less circumscribed and more generous. Following public outcry, the UK Government brought in two additional schemes: the Ukraine Sponsorship and extension schemes. *De facto*, these were an uncapped visa schemes; although, as we discuss in further detail below, the reliance on sponsorship introduced some limits.

Importantly, these visas were part of a package of support measures for Ukraine and Ukrainians which, alongside humanitarian protections for women and children fleeing the conflict, included supplying military know-how and weapons. As part of this package the offer of humanitarian protections for Ukrainians are a public and international declaration of the UK's position on the war.

With the exception of the extension scheme (which allows Ukrainians with other visas to apply from within the UK), potential beneficiaries need to apply for a visa from outside the UK. Limited to those who have Ukrainian nationality, eligibility additionally depends on a demonstrative UK family connection or offer of private sponsorship.

The Ukraine schemes were modelled on the community sponsorship schemes already in place for Syrians and Afghans. There are no fees for those applying. A significant dimension of such schemes is that people arriving in the UK already have housing and accommodation organised. In addition, beneficiaries gain, *inter alia*, the immediate right to work, access to schools and healthcare, as well as certain welfare benefits. Such provisions are largely in line with what the UK offers to those with refugee status. However, unlike refugee status which offers a route to settlement (and citizenship) these visas were time-limited to three years. Notably, none of the routes offer the possibility of settlement (ILR).

Between March 2022 and September 2023, 241,846 visas were granted through these schemes.<sup>7</sup> Due to the imposition of martial law in Ukraine, which places in reserve men aged 18-60 years old, women and children made up the majority of those applying and arriving in the UK.

### *The difference that nationality makes*

The protections and rights offered to Hong Kongers and Ukrainians diverge from those offered through the UK's asylum regime. All those whose asylum claims are successful and are granted refugee status have a route to settlement as standard after five years, at which

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<sup>7</sup> Home Office, *National Statistics: Safe and legal (humanitarian) routes to the UK (Updated 7 December 2023)*, 2023. Available at: <https://www.gov.uk/government/statistics/immigration-system-statistics-year-ending-september-2023/safe-and-legal-humanitarian-routes-to-the-uk#ukraine-visa-and-extension-schemes>.

point they can apply for indefinite leave to remain. They also have access to public services and healthcare, access to work and welfare benefits.

The contrast is marked for the Hong Kongers who are required pay for the protections they receive and their access to healthcare, while also having No Recourse to Public Funds (NRPF), despite sharing a five-year route to settlement with those granted refugee status. For the Ukrainians, while rights and provisions are similar to those offered to refugees, the temporariness of their status and the lack of a pathway to settlement distinguishes these provisions from others receiving humanitarian protections—including Syrians and Afghans eligible for resettlement in the UK via bespoke schemes. Further, the explicit discrimination by nationality of these different humanitarian protections is a marked departure from the international protections for refugees laid out in the 1951 Refugee Convention, which was designed to offer refuge to individuals regardless of their nationality.

The differences between schemes commonly badged as ‘humanitarian protections’ is also instructive. As the comparison above demonstrates, those in the UK as beneficiaries of these humanitarian visas cannot call on the same protections or rights as one another. This signals a stratification of those deemed ‘in need’ of humanitarian protections which also diverges from past practice.<sup>8</sup> In singling out certain populations for protections, this shift provides further evidence of a post-Brexit process of picking and choosing ‘good migrants’ for ‘Global Britain’.<sup>9</sup> This extends a longer trajectory of sorting and ordering through the UK’s immigration controls with links to colonial practices of racial distinction.<sup>10</sup>

### **Morality, history, and post-Brexit humanitarian protections**

The provisions for Ukrainians and Hong Kongers have been repeatedly presented by the UK Government as evidence of their commitment to defending human rights and supporting vulnerable people. Beyond this, and as the following quotation from minister for immigration Robert Jenrick MP illustrates, these offer a way to further control who comes to the UK seeking humanitarian protections. Interviewed in the Sunday Telegraph—one of the UK’s broadsheet newspapers—in February 2023, Mr Jenrick defended a selective approach to offering humanitarian protections:

I don’t agree with the argument that some make that we should open our doors to anyone from anywhere who is seeking a better life or refuge from the many conflicts

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<sup>8</sup> See also M. Benson, N. Sigona and E. Zambelli *Humanitarian Visas in a Hostile Environment*. MIGZEN Research Brief No. 5, 2024. Available at: <https://doi.org/10.5281/zenodo.10495817>; M. Benson, N. Sigona, F. Qureshi and E. Zambelli, ‘S3 E9 (Not so) safe routes’ *Who do we think we are?* [Podcast] 15 February 2024. Available at: <https://whodowethinkweare.org/podcasts/who-do-we-think-we-are/s3e9-not-so-safe-routes/>

<sup>9</sup> See for example M. Benson, N. Sigona, E. Zambelli and C. Craven, ‘From the state of the art to new directions in researching what Brexit means for migration and migrants’, *Migration Studies*, Vol. 10, No. 2, 2022, pp.374-390; M. Benson, ‘Hong Kongers and the coloniality of British citizenship from decolonisation to ‘Global Britain’’. *Current Sociology*, Vol. 71 No. 5, 2023, pp.743-761.

<sup>10</sup> See for example N. El-Enany *(B)ordering Britain: Law, Race, Empire*. Manchester: Manchester University Press, 2020; L. Mayblin *Asylum after empire: Colonial legacies in the politics of asylum seeking*. London: Rowman & Littlefield, 2017; R. Humphris, ‘Legacies of British Imperialism in the Contemporary UK Asylum–Welfare Nexus’ *Social Sciences* Vol. 11 No. 10, 2022, pp.432.

that exist but **there will be occasions when we feel a very particular historical and moral obligation.**<sup>11</sup>

This rationale echoed the contents of Government announcements launching the Hong Kong BN(O) visa, where headlines had emphasised that this scheme honoured the UK's historic commitments to the people of Hong Kong.<sup>12</sup> The explicit focus on morality in Jenrick's statement extended this to a wider, but still selective, constituency made up of Hong Kongers, Ukrainians, Syrians and Afghans.

Later, Jenrick contrasted those 'fleeing a conflict like Putin's illegal invasion of Ukraine', to those arriving in the UK by crossing the Channel in small boats, who he presented as 'invariably throwing their documents into the sea to exploit our human rights law'. In this way, his accounts drew heavily on the discursive constructions of the 'deserving' and 'undeserving' that characterize the UK's politics of migration.<sup>13</sup> In what follows, we consider what grounding these provisions in historic and moral obligations reveals and shields from view.

### *Resurfacing colonial ties*

Writing for the Guardian in 2019, Commons Chair of the Foreign Affairs Committee, Tom Tugendhat MP called for urgent action to allow Hong Kongers to move to the UK. He argued that this would right the wrongs of the past, notably the classification of Hong Kongers as nationals rather than citizens through the British Nationality Act 1981 and later amendments informed by the Sino-British Joint Declaration.

The UK had obligations to Hong Kong citizens before 1997, and the extension of overseas citizenship, which is in many ways a second-tier citizenship, was a mistake, and I think it's one that should be corrected. At a time when there are clearly tensions in Hong Kong, the UK could reassure many Hong Kong citizens that their existing rights are recognised by the UK, and they are valued.<sup>14</sup>

These earlier changes were nominal. The genealogy of the Hong Kong BN(O) visa demonstrates how the UK Government eroded the rights of Hong Kongers from the

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<sup>11</sup> C. Hymas, 'Robert Jenrick: 'Taking in a Ukrainian family was one of the most rewarding things I've done'', *The Sunday Telegraph*, 19 Feb 2023. Available online at: <https://www.telegraph.co.uk/politics/2023/02/19/immigration-minister-robert-jenrick-hosting-ukrainian-refugees/>

<sup>12</sup> HM Government, *Hong Kong BN(O) visa: UK government to honour historic commitment*. London: HM Government, 2021. Available online at: <https://www.gov.uk/government/news/hong-kong-bno-visa-uk-government-to-honour-historic-commitment>

<sup>13</sup> See for example B. Anderson *Us and Them: the dangerous politics of immigration control*. Oxford: Oxford University Press, 2013; S. Dhaliwal and K. Forkert, Deserving and undeserving migrants. *Soundings*, 61(61), pp.49-61, 2015; H. Jones et al. *Go Home*, Manchester: Manchester University Press, 2017; N. Sharma *Home rule: National sovereignty and the separation of natives and migrants*, Oxford: Oxford University Press, 2020.

<sup>14</sup> P. Walker 'UK should give British nationality to Hong Kong citizens, Tugendhat says', *The Guardian*, 13 August 2019. Available at: <https://www.theguardian.com/politics/2019/aug/13/uk-british-nationality-hong-kong-citizens-tom-tugendhat>



introduction of the Commonwealth Immigration Act 1962 onwards, alongside the majority of those from Britain's colonies and dependencies. BN(O) status was re-purposed as the basis for the Hong Kong BN(O) visa scheme. As we argue, this reconstituted these former citizens as preferred or 'good migrants' at a time when the UK has been facing the challenges of repositioning itself internationally following the exit from the EU. It also offers evidence of the colonial entanglements within the post-Brexit migration-citizenship regime.<sup>15</sup>

This argument is further supported by the distinctive constitution of this visa that make it more proximate to the UK's ancestry visas than other humanitarian protections.<sup>16</sup> Indeed, it shares with ancestry visas its status as a paid-for route to settlement for named—formerly colonial—populations, beneficiaries eligible for indefinite leave to remain after five years living in the UK. The ancestry visa maintains the residues of patriality—with eligibility relying on the ability to prove that a grandparent was born in the UK, Channel Islands or the Isle of Man—while for HK BN(O) visa, the point of reference is eligibility for BN(O) status or being a child or dependent of someone eligible for this status. Further restrictions mean that only those who live in Hong Kong SAR or have made homes for themselves in the UK, Channel Islands or the Isle of Man can apply for the visa in reflection of the humanitarian needs the visa is intended to address.

The HK BN(O) visa does not map entirely onto the ancestry visas. However, its categorisation as a 'safe and legal route' offers further insights into the UK's post-Brexit migration regime.

#### *Sponsorship, privatisation and precarisation*

As we have outlined above, the temporariness of the Ukraine visas set them apart from other sponsorship schemes offered through the UK's 'safe and legal (humanitarian) routes'. The distinction was reaffirmed in February 2024 when the UK administration announced that beneficiaries were able to apply for an 18-month extension to their visas, but with no offer of a route to settlement.

The absence of a pathway to long-term settlement in the humanitarian visa schemes is acutely felt by beneficiaries. It leaves people unable to make plans for their future, limits their

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<sup>15</sup> M. Benson, 'Hong Kongers and the coloniality of British citizenship from decolonisation to 'Global Britain'', *Current Sociology*, Vol. 71 No. 5, 2023, pp.743-761.

<sup>16</sup> See also J. Vassiliou, M. Benson and G. Kalivis, 'S1 E6 What can the Hong Kong BN(O) visa tell us about borders and belonging in Britain today?' *Who do we think we are?* [Podcast] 7 January 2022. Available online at: <https://whodowethinkweare.org/podcasts/who-do-we-think-we-are/what-can-the-hong-kong-bn-o-visa-tell-us-about-borders-and-belonging-in-britain-today/>

aspirations, and leads to a general sense of disempowerment as they have no control over whether they are allowed to build their lives in the UK or not.<sup>17</sup>

The motivation for extending the humanitarian protection was grounded exclusively in the circumstances surrounding the war and how the UK and Ukrainian authorities envision post-war Ukraine. However, as pointed out by Pauline Latham MP in the House of Commons debate on the extension of the humanitarian visas for Ukrainians held 6 February 2024, with ‘the situation in Ukraine getting worse and showing no sign of improving’ the circumstances and aspirations of Ukrainian refugees should also be taken into account.<sup>18</sup> Particularly notable among the issues raised in the debate and by other observers is the negative impact of time-limited residence rights, from the disruptions to young people’s education, to creating unsurmountable barriers to access to employment—especially employment in line with educational qualifications and skills—to pushing beneficiaries into homelessness.<sup>19</sup> What this signals is the potential for precarity to become systemic to the status.

Housing was embedded in the Ukraine visa schemes right from the start, either because beneficiaries were joining a family member or because they had a sponsor (whether individual, community-based or institutional) who had committed to provide them with accommodation for a minimum of six months. However, the temporary nature of the housing arrangements is a lingering source of uncertainty for beneficiaries, while ‘host fatigue’ becoming more prevalent the longer the war lasts. These problems have been compounded by some private landlords’ requests for Ukrainians to provide them with financial guarantees beyond their reach—such as proof of earning and tax in the UK—as well as insufficient levels of state and specifically local council support in ensuring people’s transition to alternative accommodation.

The humanitarian schemes for Ukrainians present important similarities with resettlement schemes introduced in several Western countries since the mid-2010s. These schemes expand the role of private sponsors in the provision of humanitarian protections. The state

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<sup>17</sup> M. Benson, N. Sigona and E. Zambelli, *Humanitarian visas in a Hostile Environment*. MIGZEN Research Brief No. 5, 2024. Available at: <https://doi.org/10.5281/zenodo.10495817>; British Red Cross, ‘Fearing, fleeing, facing the future: how people displaced by the conflict in Ukraine are finding safety in the UK’, *British Red Cross*, 2023. Available at: <https://www.redcross.org.uk/-/media/documents/miscellaneous/fearing-fleeing-facing-the-future--how-people-displaced-by-the-conflict-in-ukraine-are-finding-safet.pdf><https://www.redcross.org.uk/-/media/documents/miscellaneous/fearing-fleeing-facing-the-future--how-people-displaced-by-the-conflict-in-ukraine-are-finding-safet.pdf>

<sup>18</sup> HC Deb 6 Feb 2024 Vol 745 c 31WH. Available online at: <https://hansard.parliament.uk/commons/2024-02-06/debates/799EECEC-BB48-421B-9086-D3A4E050AF4E/HomesForUkraineSchemePotentialExtension>

<sup>19</sup> J. Evans, ‘Cross-Party MPs Urge UK Government to Act as Homelessness amongst Ukrainian Refugees Increases Sixfold in a Year’, *Policy Commons*, 20 February 2023, Available online at: <https://policycommons.net/artifacts/3451555/embargoed-0001-monday-20-february/4251878/>; S. Das and M. Townsend, ‘Ukrainians Face a Homeless Future in the UK Thanks to Red Tape on Renting’. *The Observer*, June 19 2022. Available online at: <https://www.theguardian.com/uk-news/2022/jun/19/ukrainians-face-a-homeless-future-in-the-uk-thanks-to-red-tape-on-renting>; L. Tryl and Surmon, T., ‘Welcoming Ukrainians - The Hosts’ Perspective’, *More in Common*, 2023. Available at” <https://www.moreincommon.org.uk/our-work/research/welcoming-ukrainians/>.

becomes responsible only for the management of resettlement, as responsibility is transferred to sponsors.<sup>20</sup> These schemes also transfer political liability to local authorities, community and private stakeholders. There are even examples of how the financial burden of running the schemes is transferred from the state to these other parties.<sup>21</sup> Indeed, concerns about who bears the costs of the extension to the Ukraine schemes was similarly raised in a recent Commons debate.<sup>22</sup>

What these schemes demonstrate is the increasing privatisation of humanitarian protections, the responsibilities for protection transferred to private actors. The Ukraine visa schemes—and other sponsorship models—increasingly rest on diffusing responsibility for humanitarian protections and support to the population at large. In the context of the UK this echoes the policy approach at the heart of the Hostile Environment, where immigration controls become increasing deputised, outsourced to the public.<sup>23</sup>

While sponsorship models can facilitate the local integration of refugees, it is less clear what the purpose of community involvement is for provisions that are temporary by design. As we have highlighted, the Ukraine visa schemes stand apart from previous community sponsorship resettlement schemes in that its aim is not to promote long-term refugee integration but rather provide a short-term support package for individuals who are expected to return to Ukraine as soon as the UK and the Ukrainian authorities decide it is safe to do so. Notably, beneficiaries are given no say in this decision and (to date) no pathway to settlement in the UK. This structural feature of the scheme contradicts one of the central premises of the community and private sponsorship scheme which are instead designed to empower beneficiaries by giving them more direct access to local resources and community networks to facilitate the process of embedding in host communities.

Other concerns that the Ukraine schemes share with related sponsorship-based initiatives include the varying quality of support provided;; the risks related to the dependency of beneficiaries on their hosts—which may, as in other areas of the migration regime lead to exploitation and abuse; as well as host fatigue. These risks may be exacerbated by a context

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<sup>20</sup> J. Hyndman et al. Sustaining the Private Sponsorship of Resettled Refugees in Canada. *Front. Hum. Dyn* 3:625358. 2021; N.F. Tan Community Sponsorship in Europe: Taking Stock, Policy Transfer and What the Future Might Hold. *Front. Hum. Dyn* 3:564084. 2021.

<sup>21</sup> P.T. Lenard Resettling refugees: is private sponsorship a just way forward? *Journal of Global Ethics*, 12:3, 300-310, 2016.

<sup>22</sup> HC Deb 6 Feb 2024 Vol 745 c 31WH. Available online at: <https://hansard.parliament.uk/commons/2024-02-06/debates/799EECEC-BB48-421B-9086-D3A4E050AF4E/HomesForUkraineSchemePotentialExtension>

<sup>23</sup> M. Griffiths and C. Yeo, 'The UK's hostile environment: deputising immigration control', *Critical Social Policy*, Vol. 4 No. 4, 2021, pp. 521-544; R. Humphris and N. Sigona 'Outsourcing the 'best interests' of unaccompanied asylum seeking children in the era of austerity', *Journal of Ethnic and Migration Studies*, Vol 45 No. 2, 2019, pp. 312-330.

where, on the one hand, conflict and displacement are protracted, and on the other hand, there is uncertainty about the long-term prospects for the visa beneficiaries.<sup>24</sup>

## Conclusion

The UK's new 'safe and legal routes' are a prominent feature of the post-Brexit migration regime, their origins lying in the UK's foreign policy and security agenda. This is the context which frames the ongoing politicisation of asylum and international protections and related Government efforts to curtail access to asylum through policy and legislative efforts. In this context, the offer of bespoke routes founded on prior authorisation to enter the UK is a contrast to the Government's approach to asylum.

The launch of bespoke schemes for Hong Kongers and Ukrainians marked a change of pace in the UK's commitment to offering humanitarian protections via designed 'safe and legal routes', allowing almost four hundred thousand people to arrive in the UK through these schemes in three years. They constitute the vast majority of those offered humanitarian protection in the UK. The schemes are evidence of a concerted effort by the UK Government to exercise greater control over their humanitarian protection regime. This runs counter to the universalist approach underpinning the international protection framework built around the 1951 Refugee Convention on which the UK asylum system was based. In other words, this is a move away from the multilateral international system that emerged in the wake of World War II, towards a more transactional and utilitarian approach to international relations where the UK claims for itself the right to choose who to protect and on what terms.

Beyond this overarching logic, our close examination of these two schemes makes clear the different logics that come into play in the selection of the beneficiaries of humanitarian protections. The historical obligations vis-à-vis Hong Kongers, and the terms offered to them reveal the coloniality of the post-Brexit migration regime while also being informed by geopolitics, namely the deterioration of the UK's relationship with the People's Republic of China. The moral obligations presented in justification of Ukraine schemes perhaps even more strongly signal the UK's geopolitical position, this time aimed towards Russia. While the UK's 'safe and legal routes' share in common a name, different genealogies and policy logics have resulted in a stratified and differentiated approach to humanitarian protections, characterised by fundamental differences in what constitutes protections, from how they are provided, to the terms offered to beneficiaries.

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<sup>24</sup> A. Korteweg, S. Labman, and A. Macklin, 'Humanitarian bargains: private refugee sponsorship and the limits of humanitarian reason', *Journal of Ethnic and Migration Studies*, Vol. 49, No. 15, 2023. pp.3958-3975; G. D'Avino, 'Framing community sponsorship in the context of the UK's hostile environment', *Critical Social Policy*, Vol. 42 No. 2, 2022, pp. 327-349; J. Phillimore, M. Reyes, S. Hassan *Community Sponsorship in the UK: Formative Evaluation 2017-2020*, Institute for Research into Superdiversity, University of Birmingham, 2020.