

# The UK's 'Safe and Legal' Humanitarian Routes: from Colonial Ties to Privatising Protection

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## Abstract

In this article, the UK's 'safe and legal (humanitarian) routes' are evaluated by examining how they are positioned in the post-Brexit migration regime, and how these domestic provisions compare to those underwritten by international protections. The Hong Kong British Nationals (Overseas)—HK BN(O)s—and Ukraine visa schemes are an area of focus 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, the schemes have significant differences in terms of eligibility criteria, costs, 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 HK 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.

**Keywords:** humanitarian protections, coloniality, colonial legacy, migration, citizenship Hong Kong British Nationals (Overseas), Ukraine visa schemes, refugee, 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 the 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. This should be considered 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 schemes are people fleeing the ongoing conflict in Ukraine and those leaving Hong Kong following the imposition of the national security law.

After a brief overview of the emerging post-Brexit migration and asylum regime, the new humanitarian schemes for Ukrainians and Hong Kongers are compared and contrasted. This sets the stage to examine the different policy genealogies and logics that underpin these schemes. On the one hand, the Hong Kong British Nationals (Overseas)—HK 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 2015–17 '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. The UK government's rhetoric about these schemes is considered, alongside how these are positioned in the politics of migration and asylum. The contrast between the recipients of these protections as 'deserving' migrants, while those entering the UK via unauthorised routes are presented as 'undeserving', is notable.

Overall, the new humanitarian schemes mark a move away from the multilateral international system of humanitarian protection that emerged in the wake of World War Two. Instead, they pursue a more transactional and utilitarian approach to humanitarianism, where the UK claims 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 a policy paper that outlined the strategic vision and agenda for defence, security and foreign policy—*Global Britain in a Competitive Age*. From ambitions to digitalise the borders entirely, 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 introduced by the Labour administration (1997–2010), this narrative of securitisation took on a 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 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 migration 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 which 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 sought to make those arriving in this way ineligible to claim asylum in the UK. Such criminalisation has been presented by the Government 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 under the Conservative administration that places increasing restrictions on who can claim asylum as a consequence of entering the UK without authorisation.

<sup>1</sup>H. Jones, et al., *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.

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

The contrast to those arriving via unauthorised routes is reinforced by the naming of certain provisions as ‘safe and legal routes’. 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 put, by 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 people smugglers, with 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’?

This section considers who is coming to the UK through these routes, and on what terms and 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 have been those entering the UK via the HK BN(O) and Ukraine visa schemes. Together, these 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 Afghans—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

<sup>3</sup>Home Office, *Safe and Legal Routes*, Illegal Migration bill factsheet, UK Government, 2023; <https://www.gov.uk/government/publications/illegal-migration-bill-factsheets/safe-and-legal-routes>.

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

two uncapped schemes, the numbers taking up the offer of humanitarian protections grew exponentially.

As discussed in further detail below, these routes are not underpinned by the international protection framework. Instead, they are domestically determined, existing in parallel with the asylum regime. They offer a way for those from certain countries (and under certain conditions) judged as ‘in need’ of 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.

## The Hong Kong British Nationals (Overseas) visa

How do the ‘safe and legal routes’ differ from one another in law and practice? 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, which was explicitly presented as offering humanitarian protections. It was brought in following the UK government’s judgement that the introduction of the national security law in the Hong Kong special administrative region (SAR) breached the ‘one country, two systems’ approach agreed in the 1984 Sino-British negotiations on the future of Hong Kong. The visa was introduced alongside a set of measures sanctioning China on the grounds of human rights abuses, amid rising tensions between the UK and China.

The initial framing of the BN(O) visa restricted access to those eligible for BN(O) status and their dependants. 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 China. While this route was initially out of reach to those born after 1997 who were no longer dependants of those eligible for BN(O) status, subsequent changes have relaxed this condition and, from autumn 2023, 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 the time of writing, £180 per applicant for a thirty-month visa, £250 for a five-year visa), and the Immigration Health Surcharge (IHS), currently £1560 for thirty 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 IHS. 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 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, 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 uncapped visa schemes, although, as discussed 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

<sup>5</sup>Home Office, *Safe and Legal (Humanitarian) Routes to the UK*, Office for National Statistics, UK Government, 2023; <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>N. Sigona and M. Benson, 'UK government's response to this refugee crisis is too little, too confused, too slow', *ODI*, 9 March 2022; <https://odi.org/en/insights/uk-governments-response-to-refugee-crisis-is-too-little-too-confused-too-slow/>.

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 and 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 ILR.

Between March 2022 and September 2023, 241,846 visas were granted through these schemes.<sup>7</sup> Owing to the imposition of martial law in Ukraine, which places in reserve men aged 18 to 60, 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 point they can apply for ILR. They also have access to public services, healthcare, work and welfare benefits.

The contrast is marked for the Hong Kongers who are required to pay for the protections they receive and their access to healthcare, while also having 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 impermanence of their status and lack of a pathway to settlement distinguishes these provisions

<sup>7</sup>Home Office, *Safe and Legal (Humanitarian) Routes*.

from others receiving humanitarian protections—including Syrians and Afghans eligible for resettlement in the UK via bespoke schemes.

The differences between schemes commonly badged as 'humanitarian protections' is 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 immigration minister

<sup>8</sup>M. Benson, N. Sigona and E. Zambelli, 'Humanitarian visas in a hostile environment', MIGZEN Research Brief No. 5, University of Birmingham, 2024; <https://doi.org/10.5281/zenodo.10495817>; M. Benson et al., '(Not so) safe routes', *Who Do We Think We Are?*, Podcast, S3 E9, 15 February 2024; <https://whodowethinkweare.org/podcasts/who-do-we-think-we-are/s3e9-not-so-safe-routes/>.

<sup>9</sup>M. Benson, et al., '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>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, p. 432.

Robert Jenrick MP illustrates, these offer another way to control who comes to the UK seeking humanitarian protections. Interviewed in *The Sunday Telegraph* 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 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 HK BN(O) visa, where headlines had emphasised that the 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’ with those arriving in the UK by crossing the Channel in small boats, the latter whom 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’ which characterise the UK’s politics of migration.<sup>13</sup> The following section considers what grounding these provisions in historic and moral

obligations reveals, and what they shield from view.

## Resurfacing colonial ties

Writing for *The Guardian* in 2019, Chair of the House of Commons Foreign Affairs Committee, Tom Tugendhat, 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 HK BN(O) visa demonstrates how the UK government eroded the rights of Hong Kongers from the introduction of the Commonwealth Immigration Act 1962 onwards, alongside the majority of those from Britain’s colonies and dependencies. BN(O) status was repurposed as the basis for the HK BN(O) visa scheme. 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 its 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 makes it more proximate to the UK’s ancestry visas than other humanitarian

<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, emphasis added; <https://www.telegraph.co.uk/politics/2023/02/19/immigration-minister-robert-jenrick-hosting-ukrainian-refugees/>.

<sup>12</sup>Home Office, ‘Hong Kong BN(O) visa: UK government to honour historic commitment’, HM Government, 2021; <https://www.gov.uk/government/news/hong-kong-bno-visa-uk-government-to-honour-historic-commitment>.

<sup>13</sup>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*, no. 61, 2015, pp. 49–61; 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; <https://www.theguardian.com/politics/2019/aug/13/uk-british-nationality-hong-kong-citizens-tom-tugendhat>.

<sup>15</sup>Benson, ‘Hong Kongers and the coloniality of British citizenship’.

protections.<sup>16</sup> Indeed, it shares with ancestry visas its status as a paid route to settlement for named (formerly colonial) populations who become beneficiaries eligible for ILR 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 the HK BN(O) visa, the point of reference is eligibility for BN(O) status or being a child or dependant 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 precarity

As outlined above, the ephemerality of the Ukraine visas sets 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 announced that beneficiaries were able to apply for an eighteen-month extension, 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 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>

<sup>16</sup>J. Vassiliou, M. Benson and G. Kalivis, ‘What can the Hong Kong BN(O) visa tell us about borders and belonging in Britain today?’, *Who do we think we are?*, Podcast, S1 E6, 7 January 2022; <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/>.

<sup>17</sup>Benson, et al., ‘Humanitarian visas’; British Red Cross, ‘Fearing, fleeing, facing the future: how people displaced by the conflict in Ukraine are finding

The motivation for extending the humanitarian protection was grounded exclusively in the circumstances surrounding the war and how the UK and Ukrainian authorities envision postwar 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 insurmountable barriers to accessing 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

safety in the UK’, *British Red Cross*, 2023; <https://www.redcross.org.uk/about-us/what-we-do/we-speak-up-for-change/how-people-displaced-by-the-conflict-in-ukraine-are-finding-safety-in-the-uk>.

<sup>18</sup>*House of Commons Debates*, vol.745, col. 31WH, 6 February 2024; <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’, *Crisis*, 20 February 2023; <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*, 19 June 2022; <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 T. Surmon, ‘Welcoming Ukrainians—the hosts’ perspective’, *More in Common*, 13 March 2023; <https://www.moreincommon.org.uk/our-work/research/welcoming-ukrainians/>.

arrangements is a lingering source of uncertainty for beneficiaries, with ‘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 becomes responsible only for the management of resettlement, because responsibility is transferred to sponsors.<sup>20</sup> These schemes also transfer political liability to local authorities, as well as 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 raised in a recent Commons debate.<sup>22</sup>

What these schemes demonstrate is the increasing privatisation of humanitarian protections with 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 and 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 highlighted, the Ukraine visa schemes stand apart from previous community sponsorship resettlement schemes in that the 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 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 and the risks related to the dependency of beneficiaries on their hosts—which, as in other areas of the migration regime, may lead to exploitation and abuse, as well as host fatigue. These risks may be exacerbated by a context where, on the one hand, conflict and displacement are protracted and, on the other, there is uncertainty about the long-term prospects for the visa beneficiaries.<sup>24</sup>

<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.

<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.

<sup>20</sup>J. Hyndman, et al., ‘Sustaining the private sponsorship of resettled refugees in Canada’, *Frontiers in Human Dynamics*, vol. 3, no. 625358, 2021; <https://www.frontiersin.org/articles/10.3389/fhumd.2021.625358/full>; N.F. Tan, ‘Community sponsorship in Europe: taking stock, policy transfer and what the future might hold.’, *Frontiers in Human Dynamics*, vol. 3, no. 564084, 2021; <https://www.frontiersin.org/articles/10.3389/fhumd.2021.564084/full>.

<sup>21</sup>P. T. Lenard, ‘Resettling refugees: is private sponsorship a just way forward?’, *Journal of Global Ethics*, vol. 12, no. 3, pp. 300–310, 2016.

<sup>22</sup>HC Deb., 6 Feb 2024.



## 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. Within the broader context of the ongoing politicisation of asylum and international protections and related government efforts to curtail access to asylum through policy and legislative efforts, the offer of bespoke routes founded upon 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 has marked a change of pace in the UK's commitment to offering humanitarian protections via designated 'safe and legal routes', allowing almost 400,000 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 the 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 Two, towards a more transactional and utilitarian approach to international relations whereby the UK claims for itself the right to choose who to protect and on which terms.

Beyond this overarching logic, the 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 geopolitical tensions, namely the deterioration of the UK's relationship with 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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