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From negative to positive internationalised protection: Attenuated solidarity and the practice of refugee protection

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Abstract

This article explores the growth of international civilian-protection concepts since the 1990s and the question of what protection means in a qualitative sense. It makes a significant intervention in advancing a typology of *positive* and *negative protection*, allowing more systematic analysis of whether protective practices fulfil the normative goals of internationalised protection and creating openings for expanded imagination of possible protective practices. It is argued that practices of refugee protection during this period have been shaped by logics of externalisation that seek to maintain distance between protector and protected and attenuate cosmopolitan solidarity with vulnerable non-citizens, both of which have detrimental impacts on the depth of protective practices and the experience of protection. These practices occur at the intersection of conflicting interpretative backdrops – between the cosmopolitan-minded commitments to the protection of vulnerable non-citizens and backdrops that frame migration as a problem. Using the case of the United Kingdom (UK) asylum system, the article argues that this is generative of *negative protection* – practices providing immediate physical protection, but simultaneously constructing conditions of acute vulnerability. Conversely, *positive protection* might be found in practices that embody fuller solidarity with protected people and enable them to flourish as a socially embedded individuals.

What should being 'protected' as a refugee entail and what depth of responsibility do states have to acutely vulnerable non-citizens? The Arab Spring conflicts, the oppression of the Rohingya, the rise of Islamic State, and Russian aggression in Ukraine posed familiar questions about the practice of internationalised protection for people forcibly displaced by political violence, human rights abuse, and mass atrocity crime. Refugee experiences are frequently characterised by a difficult liminal situation, ostensibly receiving protection from immediate forms of violence, whilst also encountering simultaneous vulnerability to structural violence in their countries of refuge.

This article explores the place of refugee protection in the expansion of civilian-protection discourse and practice in the early 21st century. It argues that despite the exponential growth of civilian-protection concepts, insufficient attention has been dedicated to where internationalised protection should be practised and what it should mean in a qualitative sense. Recent civilian-protection debates have been dominated by *expeditionary* forms of protection, where protection occurs externally to the borders of the states taking on the role of

internationalised protector. This is in contrast to longer-standing modes of *inward* protection, manifested in practices of asylum and refugee protection within state borders. However, refugee protection practices in Western states have themselves become infused by a similar logic of externalisation over the same time period. This logic is evident in an assemblage of practices that aim to externalise responsibilities for refugee protection, keeping those in search of asylum contained away from Western borders. The logic of externalisation is also transposed into state practices that keep those who do manage to access protection within Western societies external and marginal to the host population. These practices of inward refugee protection frequently demonstrate what this article characterises as *negative protection* – a situation where immediate physical protection is provided, but where conditions of acute vulnerability are simultaneously and often deliberately constructed by state policy. The article contrasts this with the concept of *positive protection* – practices that aim at a fuller sense of protection, embedding refugees in social networks of solidarity, care, and mutual support and creating more optimal conditions for human flourishing.

Drawing on some of the precepts of practice theory, the article examines the influence of interpretative backdrops, against which the communities of practice concerned with internationalised protection form their practices. Interpretative backdrops are the narratives and superstructures of ideas that '[set] the terms of interaction, [define] a horizon of possibility, and [provide] the background of expectations, dispositions, skills, techniques and rituals that are the basis for the constitution of practices and their boundaries'.[1] The article employs this conceptualisation of the relationship between interpretative backdrop and practice, to analyse the case of United Kingdom (UK) asylum policy. It draws upon domestic and international policy documents, legal frameworks, and elite discourse to identify the intersection of interpretative backdrops that have shaped British practices of inward protection. The principal contribution of the article is to advance a typology of positive and negative protection that allows for the depth of internationalised protection to be better conceptualised and understood. For academic scholarship, it is an analytical tool to evaluate how different practices of internationalised protection are experienced by the intended beneficiaries and patterns of disconnect with the normative aims of civilian-protection regimes. As an advocacy tool, the typology provides an opening for the imagination of fuller practices of protection that create the conditions for human flourishing.

This argument is developed across three sections. The first section argues that discourses of international civilian protection in the 1990s and early 21st century have been typified by implicit assumptions of internationalised protection as an *expeditionary* activity – where protection occurs externally to the borders of those states assuming the role of protector. This logic of externalisation has also infused approaches to refugee protection, evident both in practices of border externalisation to contain refugees in or near their countries of origin, and also in practices that keep those managing to claim asylum within state borders, in a precarious, liminal position on the margins of mainstream society. Theses practices occur at the intersection of conflicting interpretative backdrops – between the cosmopolitan-minded commitments to internationalised protection of vulnerable non-citizens and domestic backdrops that frame migration as a problem.

The second section demonstrates how the depth of protection is reduced in this intersection between conflicting interpretative backdrops, attenuating solidarity with recipients of inward protection and generating everyday micro-practices of exclusion and social marginalisation. The typology of *negative protection* is introduced to describe practices where minimal protections from direct physical harm are provided, but profound precarity remains, exposure to deliberate structural violence is embedded, and the conditions for human flourishing are foreclosed. The UK asylum system, from the 1990s to the present, is used as a case study of negative protective practices. Despite Britain's role as an advocate of internationalised civilian protection, its asylum system, which forms a constitutive part of these commitments, is dominated by practices of negative protection.

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[1]Emanuel Adler and Vincent Pouliot, 'International practices', *International Theory*, 3:1 (2011), pp. 1–36 (p. 17).

The final section provides an alternative typology of *positive protection*, which involves providing both immediate physical protection *and* the capacities to flourish and participate fully as a socially embedded individual, in a relationship of fuller solidarity between protector and protected. Tentative empirical examples of this can be found in the practices of NGOs and community groups, whose activities fill the gap left by negative protection. The article explores the UK City of Sanctuary movement as an exemplar, where positive protection is enacted though strategies of conscious social embedding.

Locating internationalised protection: Logics of externalisation

This section argues that the growth of civilian protection approaches in the 1990s and early 21st century has typically been expeditionary in focus, where protection is provided external to the borders of the states taking on internationalised protective responsibilities. Although these approaches appear divergent from longer-standing inward forms of protection, refugee protection in prominent Western states has itself become increasingly comprised of practices which externalise these protective commitments. A logic of externalisation has infused internationalised practices of protection – the extension of ethical community in the goal of protecting vulnerable non-citizens, juxtaposed against practices that keep recipients of protection distant from the societies that take on the role of protector. This tension attenuates the cosmopolitan solidarity associated with the international civilian-protection regime and is generative of the negative protective practices identified later in the article.

Expeditionary and inward modes of civilian protection

The growth of civilian-protection discourses and practices in the 1990s and early 21st century reflects the expansion of state responsibilities for the internationalised protection of non-citizens from specific forms of extreme harm. These contested normative developments have been manifested in the practice of humanitarian intervention, the expanded remit of United Nations (UN) peacekeeping, and the emergence of the Responsibility to Protect (R2P) concept, alongside state- and regional-level policies on atrocity prevention and the protection of vulnerable non-citizens.[2] What unifies and underlies these varied discourses of protection is at least a latent sense of cosmopolitan moral solidarity – that irrespective of citizenship or territorial location, human beings have the right to internationalised protection from extreme forms of harm. This imagination of internationalised protection flows from what Linklater refers to as 'cosmopolitan harm conventions' – the normative structures set in place 'for the purpose of protecting individuals and sub-state groups from unnecessary harm, whether it is caused by national, international or transnational actors, structures and processes'.[3] Violations of international human rights treaties and international humanitarian law, alongside the international crimes codified in the Rome Statute, typically represent the forms of harm that recent protection of civilians concepts are directed against.

This new discourse of protection is also bound together by a predominant, though not always explicit, conception of protection as an *expeditionary* activity – undertaken outside the borders

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[2]See, for instance, Nicholas Wheeler, *Saving Strangers* (Oxford: Oxford University Press, 2000); United Nations Department of Peace Operations, *The Protection of Civilians in United Nations Peacekeeping* (New York: UNDPO, 2020); International Commission on Intervention and State Sovereignty, *The Responsibility to Protect* (Ottawa: International Development Research Centre, 2001); United Nations General Assembly, 'World summit outcome', A/RES/60/1 (New York: United Nations, 2005); NATO, 'NATO policy for the protection of civilians' (Warsaw: North Atlantic Council, 2016); NATO, *Protection of Civilians: ACO Handbook* (Brussels: SHAPE, 2020); Council of the European Union, 'Draft revised guidelines on the protection of civilians in CSDP missions and operations', 13047/10 (Brussels: European Union, 2010); Foreign & Commonwealth Office, *The UK Government's Strategy on the Protection of Civilians in Armed Conflict* (London: FCO, 2011); Department of Defense, *Civilian Harm and Response Action Plan* (Washington, DC: Department of Defense, 2022). UN Security Council Resolutions 1265 (1999), 1296 (2000), 1674 (2006), 1738 (2006), and 1894 (2009) have also emphasised the internationalisation of civilian protection responsibilities and the UN's role in coordinating them.

[3]Andrew Linklater, *The Problem of Harm in World Politics* (Cambridge: Cambridge University Press, 2011), p. 37.

of states that assume these protective responsibilities. This location of protection has obvious connections to expeditionary military operations, whether high-impact, 'showpiece' humanitarian interventions such as Libya in 2011, or more prosaic day-to-day protective responsibilities of UN peacekeepers in conflict-affected societies.[4] Alternatively, the R2P concept formalising an internationalised responsibility to protect vulnerable populations from specified forms of extreme harm demonstrates greater ambiguity regarding the precise location of protection, functioning as an umbrella concept, under which a variety of potential practices, agents, and locations of protection might be found.[5] However, despite this apparent spectrum of possible protective practices, the R2P debate has typically gravitated toward varying modes of expeditionary protection, whereby internationalised protection is 'a foreign policy issue to be executed from a geographical distance' by those states assuming the role of internationalised protectors.[6]

The rise of expeditionary protection raises important questions about the relationship of these newer civilian-protection concepts, to longer-standing modes of internationalised civilian protection – the practices of asylum and refugee reception, codified in the 1951 'Convention on the Status of Refugees'. The refugee-protection regime is premised on an *inward* mode of protection – the protection of vulnerable non-citizens *within* the territorial boundaries of those states taking on internationalised protective responsibilities, by providing short-term shelter, long-term resettlement, or the problematic position of many refugees in long-term limbo between the two. The 1951 Convention conceptualises refugee protection in relation to specific forms of individualised persecution, though later normative developments have expanded the remit to include 'subsidiary' or 'complementary' protection from 'indiscriminate violence in situations of international or internal armed conflict'.[7] These modes of inward protection provide the normative antecedents for the expanded formalisation of civilian protection discourse in the early 21st century, sharing the common objective of providing internationalised protection of people from violence and human rights abuse irrespective of their nationality, in circumstances where their states of origin are unwilling or unable to do so. Indeed, the UN protection of civilians concept is explicitly situated in 'international humanitarian, human rights and refugee law'.[8] Nevertheless, the precise relationship between expeditionary and inward modes of internationalised protection remains unclear, and the focus on expeditionary approaches has formed the mainstay of the debate on the protection of civilians at the UN. Despite forced displacement being mentioned frequently in the UN Secretary General's annual reports on the protection of civilians, there is relatively limited engagement with inward protection through asylum and refugee protection, in comparison to the more frequently discussed expeditionary measures of humanitarian aid and peacekeeping.[9] A notable exception to this pattern is found in the 2017 annual report, which coincided with the 2016 New York Declaration

[4]Jonathan Gilmore and David Curran, 'From showpiece interventions to day-to-day civilian protection: Western humanitarian intervention and UN peacekeeping', in Aidan Hehir and Robert Murray (eds), *Protecting Human Rights in the 21st Century* (London: Routledge, 2017), pp. 126–42.

[5]For examples of the possible protective practices envisaged within the R2P, see UN General Assembly, 'Implementing the responsibility to protect: Report of the Secretary General', A/63/677 (New York: United Nations, 2009), pp. 23–5; United Nations General Assembly, 'Responsibility to protect. Timely and decisive response: Report of the Secretary General', A/66/874-S/2012/578 (New York: United Nations, 2012), pp. 7–10.

[6]Chloe Gilgan, 'Exploring the link between R2P and refugee protection: Arriving at resettlement', *Global Responsibility to Protect*, 9:4 (2017), pp. 366–394 (p. 372).

[7]Official Journal of the European Union, 'European Council Directive 2004/83/EC' (Brussels: European Union, 2004), p. L304/19. See also United Nations High Commission for Refugees, *Handbook on Procedures and Criteria for Determining Refugee Status and Guidelines on International Protection* (Geneva: UNHCR, 2019), pp. 215–38. Antecedents to complementary/subsidiary protection can be found in Organization for African Unity Charter (1969) and the Cartegena Declaration (1984).

[8]UN Security Council, 'Report of the Secretary-General on the protection of civilians in armed conflict', S/2012/376, (New York: United Nations, 2012) pp. 5–6.

[9]These reports have been produced on a near-annual basis since 1999.

for Refugees and Migrants and negotiations toward the 2018 Global Compact on Refugees, which contains a more explicit link between asylum and civilian protection.[10]

Similar ambiguities regarding inward protection are evident in the relatively scant engagement with refugee protection within the R2P debate, despite the clear normative connection to objectives of protecting vulnerable non-citizens from egregious forms of harm.[11] The original International Commission on Intervention and State Sovereignty report has a sparse focus on refugees, mentioning them only in relation to their movement as either a potential security threat or a complicating issue for post-conflict justice and reconciliation, with no direct mention in the original report of refugees as specific subjects of protection.[12] Clearer connections with refugee protection can be found in the UN Secretary General's reports in 2009, 2012, and 2014, though as with the parallel protection of civilians debate within the UN, they are given limited attention relative to the more extensive coverage of expeditionary protection.[13] The 2015 European 'Refugee Crisis' prompted much greater consideration of refugee issues within the academic debate on the R2P, as an embrace of more traditional tools of civilian protection, on which there is greater international consensus.[14] However, this refugee 'turn' in R2P scholarship is yet to be mirrored in the policy debate, suggesting that the connection of the R2P with inward protection is aspirational, rather than a firmer development in international practice.

The externalisation of inward protection

Civilian-protection concepts formalised the early 21st century have thus become dominated by an expeditionary focus and a logic of externalisation that channels the cosmopolitan solidary latent in internationalised protection, through techniques that maintain spatial separation between populations receiving internationalised protection and the societies ostensibly providing it. However, important antecedents for this logic of externalisation are evident in ad hoc practices of internationalised protection in the 1990s, notably in northern Iraq and Bosnia, with humanitarian intervention constructed as an alternative to inward protection, amidst declining support for the international refugee regime.[15] As Orford argues of this period, 'the logic of intervention does not require us to welcome them into our "home" as a sanctuary. The violence of intervention operates as a strategy for ensuring that the otherness which these strangers represent is kept in its place.'[16]

This logic of externalisation permeated practices of refugee protection that emerged in parallel to expeditionary approaches during the 1990s and which have solidified in the decades since.

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[10]United Nations Security Council, 'Report of the Secretary-General on the protection of civilians in armed conflict', S/2017/414 (New York: United Nations, 2017), p. 20.

[11]Susan Rimmer, 'The Rwanda paradigm', in Cecilia Jacob and Alistair Cook (eds), *Civilian Protection in the Twenty-First Century* (Oxford: Oxford University Press, 2016), pp. 79–104 (p. 81); Stefania Panebianco and Iole Fontana, 'When the responsibility to protect "hits home": The refugee crisis and the EU response', *Third World Quarterly*, 39:1 (2018), pp. 1–17 (p. 4).

[12]International Commission on Intervention and State Sovereignty, *The Responsibility to Protect*, pp. 5, 42, 53, 66, 72.

[13]UN General Assembly, 'Implementing the responsibility to protect', pp. 15–16, 29; UN General Assembly/UN Security Council, 'Responsibility to protect: Timely and decisive response', A/66/874-S/2012/578 (New York: United Nations, 2012), pp. 11–12; UN General Assembly/UN Security Council, 'Fulfilling our collective responsibility. International assistance and the responsibility to protect: Report of the Secretary General', A/68/947-S/2014/449 (New York: United Nations, 2014), p. 16.

[14]See Gilgan, 'Exploring the link between R2P and refugee protection'; Panebianco and Fontana, 'When the responsibility to protect "hits home"'; Jason Ralph and James Souter, 'A special responsibility to protect: The UK, Australia and the rise of Islamic State', *International Affairs*, 91:4 (2015), pp. 700–23; Alise Coen, 'Capable and culpable? The United States, RtoP and refugee responsibility-sharing', *Ethics & International Affairs*, 31:1 (2017), pp. 71–92. This post-2015 growth in R2P scholarship on refugees builds on earlier, more limited examinations of the relationship – see Brian Barbour and Brian Gorlick, 'Embracing the responsibility to protect: A repertoire of measures including asylum for potential victims', *International Journal of Refugee Law*, 20:4 (2008), pp. 533–66; Susan Martin, 'Forced migration, the refugee regime and the responsibility to protect', *Global Responsibility to Protect*, 2:1 (2010), pp. 38–59.

[15]Anne Orford, *Reading Humanitarian Intervention* (Cambridge: Cambridge University Press), pp. 209–11; Jennifer Hyndman, *Managing Displacement* (Minneapolis: University of Minnesota Press, 2000), pp. 17–21.

[16]Orford, *Reading Humanitarian Intervention*, p. 211.

Whilst the legal fundamentals of international refugee protection remain unchanged, shifts in its implementation by prominent Western states have led to the emergence of a 'non-entrée regime', defined by practices that contain refugees in or near their countries of origin and prevent their arrival at Western state borders where they may claim asylum.[17] These practices have their origins in US responses to refugee movements from Haiti in the 1980s and have been replicated through processes of policy transfer in Australia, the European Union (EU) and the UK.[18] Several overlapping techniques of externalisation manipulate the territoriality of the refugee protection and '[push] the control function of the border hundreds or even thousands of kilometres beyond the state's territory'.[19] Increasingly stringent visa restrictions and sanctions against carriers who transport those without adequate travel documentation have dramatically narrowed the safe and legal means by which refugees can cross borders to claim asylum.[20] This is supported by interdiction practices to intercept refugees before they arrive at Western state borders, either in the territory of 'partner' states acting as buffer zones or at sea.[21] Partnership agreements have been extended further, to 'offshore' asylum processing and refugee reception entirely, by paying third-party states to assume inward protection responsibilities on behalf of Western states. Australia's 'Pacific Solution' involved the subcontracting of inward protection responsibilities to Nauru and Papua New Guinea, a practice recently replicated in the UK's plan to send asylum seekers arriving by sea to Rwanda for processing and resettlement.[22]

Externalisation of refugee-protection responsibilities remains situated alongside continued Western support for the international refugee-protection regime and the cosmopolitan-minded normative commitments this entails. However, this rhetorical support is juxtaposed with a repertoire of creative practices that circumvent the spirit, if not necessarily the letter, of these legal commitments, implementing policies that very deliberately limit the capacity of people seeking internationalised protection to reach the territory of Western states to claim asylum.[23] This approach simultaneously emphasises moral closeness and the extension of ethical community to vulnerable non-citizens but then attenuates this cosmopolitan-like solidarity when the recipients of protection move beyond specified spaces of protection and closer to the territory of Western states.[24] The logic of externalisation and the associated attenuation of cosmopolitan solidarity arise at the intersection of two competing interpretative backdrops, which generate radically different

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[17] Phil Orchard, *A Right to Flee* (Cambridge: Cambridge University Press, 2014), pp. 203–37.

[18] Katherine Tennis, 'Offshoring the border: The 1981 United States–Haiti agreement and the origins of extraterritorial maritime interdiction', *Journal of Refugee Studies*, 34:1 (2019), pp. 173–203; Margherita Matera, Tamara Tubacovic, and Philomena Murray, 'Is Australia a model for the UK? A critical assessment of the parallels of cruelty in refugee externalisation policies', *Journal of Refugee Studies*, 36:2 (2023), pp. 271–93.

[19] David Scott FitzGerald, *Refuge beyond Reach* (Oxford: Oxford University Press, 2019), p. 10.

[20] Anna Triandafyllidou and Angeliki Dimitriadi, 'Governing irregular migration and asylum and the borders of Europe: Between efficiency and protection', *Imagining Europe*, 6 (2014), pp. 1–34 (p. 20); Jonathan Kent, Kelsey Norman, and Katherine Tennis, 'Changing motivations or capabilities? Migration deterrence in the global context', *International Studies Review*, 22:4 (2020), pp. 853–878 (p. 861).

[21] FitzGerald, *Refuge beyond Reach*, pp. 8–9; Kent, Norma, and Tennis, 'Changing motivations or capabilities', p. 864; Triandafyllidou and Dimitriadi, 'Governing irregular migration', pp. 11–12; Tennis, 'Offshoring the border'; Thomas Gammeltoft-Hansen, 'The end of the deterrence paradigm? Future directions for global refugee policy', *Journal of Migration and Human Security*, 5:1 (2017), pp. 28–56 (pp. 35–6); Lama Mourad and Kelsey Norman, 'Transforming refugees into migrants: Institutional change and the politics of international protection', *European Journal of International Relations*, 26:3 (2020), pp. 687–713 (p. 697).

[22] Matera, Tubacovic, and Murray, 'Is Australia a model for the UK?'; HM Government, 'Memorandum of understanding between the Government of the United Kingdom and the Government of the Republic of Rwanda for the provision of an asylum partnership arrangement', Kigali (13 April 2022), available at: {https://www.gov.uk/government/publications/memorandum-of-understanding-mou-between-the-uk-and-rwanda/memorandum-of-understanding-between-the-government-of-the-united-kingdom-of-great-britain-and-northern-ireland-and-the-government-of-the-republic-of-r}.

[23] FitzGerald, *Refuge beyond Reach*, p. 6; Orchard, *A Right to Flee*, p. 229; Thomas Gammeltoft-Hansen, 'International refugee law and refugee policy: The case of deterrence policies', *Journal of Refugee Studies*, 27:4 (2014), pp. 574–95.

[24] See Dan Bulley, 'Home is where the human is? Ethics, intervention and hospitality in Kosovo', *Millennium: Journal of International Studies*, 39:1 (2010), pp. 43–63.

ethical relations to the well-being of vulnerable non-citizens and paradoxical practices of internationalised protection. Civilian-protection discourse provides an interpretative backdrop laden with cosmopolitan ethical responsibilities to vulnerable non-citizens, framing them as important moral reference points, to be protected alongside co-nationals. However, inward protection shifts these cosmopolitan ethical responsibilities into the domestic political sphere, resulting in unavoidable connections with the communities of practice associated with immigration – border control, policing, and social welfare. Practice theory conceives communities of practice as groupings of agents who are bound together by a shared background knowledge and operating within a dominant interpretative backdrop.[25] Parameters for protective practice are thus shaped by an assemblage of background knowledge and tacit assumptions of these same immigration communities of practice. Problematically, the prevailing interpretative backdrops for immigration communities of practice are less associated with ethical responsibilities to vulnerable outsiders, and more with the assumption of migration as a socio-political problem and a potential security threat.[26] For Chimni, those seeking asylum after the Cold War have been characterised as more numerous, more mobile, and frequently as economic migrants abusing systems of refugee protection.[27] In the UK context, assumptions about excessive numbers of asylum seekers and entrenched suspicion about the veracity of their claims for protection have become increasingly accepted in a bipartisan consensus amongst policymakers.[28] These patterns of interpretation have also been accompanied with frequent discursive connections made between asylum seekers, clandestine economic migration, organised crime, and, more recently, unsubstantiated associations with sexual offences and child abuse.[29] Interpretative backdrops that shape Western immigration practices are thus profoundly non-cosmopolitan, characterised by an unease and suspicion surrounding those seeking inward protection – of a likely illegitimate, parasitic, and potentially threatening other, whose presence at best places a financial burden on the state and at worst poses a threat to its security.

This intersection between divergent interpretative backdrops has significant implications for the depth of protection encountered by its intended recipients. Contemporary civilian-protection discourse lacks clarity on the precise meaning, depth, and optimal location of internationalised protection. This provides openings for states and their communities of practice tasked with such protection to narrow both the location and scope of protective practice. This narrowing of location and scope creates deliberate distance between protector and protected, with the cosmopolitan solidarity that ostensibly underpins internationalised protection spatially compartmentalised and attenuated. The next section develops a typology of negative protection to demonstrate how the logics of externalisation and the attenuation of cosmopolitan solidarity shape protective practice within the state, and the impact this has on the depth of protection experienced by its intended beneficiaries.

Typologies of protection: Exclusion, attenuated solidarity and negative protection

When transposed into practices of inward protection for the refugees and asylum seekers able to access protection within Western states, the logic of externalisation and the attenuation of solidarity continues. However, the externalisation is manifested in practices that render protected people

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[25]Adler and Pouliot, 'International practices'. See also Christian Bueger and Frank Gadinger, 'The play of international practice', *International Studies Quarterly*, 59:3 (2015), pp. 449–60.

[26]B. S. Chimni, 'A geopolitics of refugee studies: A view from the South', *Journal of Refugee Studies*, 11:4 (1998), pp. 350–74; Vicki Squire, *The Exclusionary Politics of Asylum* (Basingstoke: Palgrave Macmillan, 2009), pp. 93–115; Lucy Mayblin, *Colonial Legacies in the Politics of Asylum Seeking* (London: Rowman & Littlefield, 2017), pp. 13–27.

[27]Chimni, 'A geopolitics of refugee studies', p. 356.

[28]Squire, *The Exclusionary Politics of Asylum*, p. 110; Mayblin, *Colonial Legacies in the Politics of Asylum Seeking*, p. 21.

[29]Squire, *The Exclusionary Politics of Asylum*, pp. 110–11; Chris Philip, 'Oral statement to Parliament: Immigration compliance minister's closing speech for Nationality and Borders Bill', House of Commons, London, 20 July 2021; Priti Patel, 'Oral statement to Parliament: Home Secretary opening speech for Nationality and Borders Bill', House of Commons, London, 19 July 2021; Priti Patel, 'Speech on immigration', to Bright Blue and British Future, London, 24 May 2021.

excluded from the moral community of the state, rather than its spatial boundaries. This has a profoundly detrimental effect on the experience of internationalised protection and asks questions about what protection means in a qualitative sense, or the specific depth of protection with which recipients might expect to be provided. As with the precise relationship between expeditionary and inward protection, discourses of contemporary civilian protection contain considerable ambiguity on these questions. To address this ambiguity, this section first outlines the article's typology of protection, setting up conceptual categories both for the shallow depth of protection commonly afforded to recipients of inward protection and for alternative practices of greater protective depth. The typology is illustrated using the case of the UK asylum system, which demonstrates the impact of attenuated solidarity and clashing interpretative backdrops on inward practices of protection. The UK has been a strong supporter of evolving norms of internationalised civilian protection. However, Britain's approach to inward protection is also shaped profoundly by the exclusionary logics of a non-entrée regime and subjects those seeking protection to deliberately constructed forms of structural violence. This paradox is generative of *negative protection* – a condition where recipients of internationalised protection are afforded immediate physical protection, but simultaneously rendered chronically vulnerable, marginalised, and deliberately external to the societies ostensibly offering them protection.

Conceptualising the depth of protection

The concept of protection is closely associated with broader debates on security, which have expanded beyond a concern with state-centric military threats to incorporate a wider range of threats to human well-being.[30] As with security, the meaning and techniques of protection lack an intrinsic ontological stability and are defined relatively ambiguously in international refugee law.[31] Security and protection are not synonymous, as being secure may involve the simple absence of a particular threat, but being protected is always an inherently relational activity involving multiple agents and modes of positive action.[32] This relationality creates subject positions of protector and protected, between whom there is a relationship of power. The way this relationship is manifested depends on levels of situated agency – of the protected to negotiate the terms of their protection in a specific context, and of the protectors to define the modalities of protection within their specific institutional context.[33] Although centrally concerned with the protection of vulnerable people, contemporary debates on internationalised civilian protection have largely sidestepped questions of how power relations inherent in internationalised protection shape the operational practices of protection and the qualitative experience of being protected.

To better conceptualise the depth of internationalised protection, useful connections can be drawn with the 'value of security' debate to construct a broad typology of protection.[34] This debate explores positive and negative conceptions of security. Its antecedents lie in Galtung's work on positive and negative peace, whereby negative peace was understood as the simple absence of

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[30]See Keith Krause and Michael C. Williams (eds), *Critical Security Studies: Concepts and Cases* (London: UCL Press, 1997); Barry Buzan, Ole Wæver, and Jaap de Wilde, *Security: A New Framework for Analysis* (London: Lynne Rienner, 1998); Ken Booth, *Theory of World Security* (Cambridge: Cambridge University Press, 2007).

[31]Guy Goodwin-Gill, 'The language of protection', *International Journal of Refugee Law*, 1:1 (1989), pp. 6–19; Antonio Fortin, 'The meaning of "protection" in the refugee definition', *International Journal of Refugee Law*, 12:4 (2000), pp. 548–76; Jef Huysmans, 'Agency and the politics of protection', in Jef Huysmans, Andrew Dobson, and Raia Prokhovnik (eds), *The Politics of Protection: Sites of Insecurity and Agency* (London: Routledge, 2006), pp. 1–18; Didier Bigo, 'Security, territory and population', in Jef Huysmans, Andrew Dobson, and Raia Prokhovnik (eds), *The Politics of Protection: Sites of Insecurity and Agency* (London: Routledge, 2006), pp. 84–100; Hugo Story, 'The meaning of "protection" within the refugee definition', *Refugee Studies Quarterly*, 35:3 (2016), pp. 1–34.

[32]Bigo, 'Security, territory and population', pp. 93–4.

[33]Huysmans, 'Agency and the politics of protection', pp. 12–13.

[34]Bill McSweeney, *Security, Identity and Interests* (Cambridge: Cambridge University Press, 1999), pp 13–22; Booth, *Theory of World Security*; Paul Roe, 'The "value" of positive security', *Review of International Studies*, 34:4 (2008), pp. 777–94; Gunhild Gjorv, 'Security by any other name: Negative security, positive security, and a multi-actor security approach', *Review of*

immediate physical violence, whilst positive peace involved the achievement of social justice goals that might address more pervasive forms of structural violence.[35] Whilst precise conceptions of negative and positive security remain contested, a similar logic is evident. Negative security can be understood as security of survival, concerned with the absence of immediate, existential danger.[36] However, surviving immediate dangers does not mean that one is insulated from the more insidious threats to life and well-being posed by structural violence – manifested in poverty, inequality, discrimination, social exclusion, and environmental destruction.[37] As Booth argues, 'survival is an existential condition: it means continuing to exist. Survival is not synonymous with living tolerably well, and less still with having the conditions to pursue cherished political and social ambitions.'[38] Negative security is thus a condition of staying alive, but not necessarily being in a position of sovereignty over one's day-to-day life. The counterpoint to negative security is a positive conception where being secure is an enabling condition – one which supports the development of social bonds, creates openings for an emancipatory politics, and helps human beings to develop their capacities.[39] The goals of positive security are not limited to basic survival, but 'survival plus' – the plus being the conditions necessary for human flourishing and self-actualisation.[40]

The advances in the 21st century in civilian-protection concepts discussed above, have not yielded a clear conception of the appropriate depth of internationalised protection and what the qualitative experience of protection might entail, an omission also evident in the pre-existing international refugee-protection regime.[41] Story tentatively moves toward the kind of positive/negative distinction evident in the value of security debate, arguing that refugee protection can be understood negatively as protection from immediate harm, or positively in relation to the fulfilment of human rights.[42] However, he provides little elaboration on the content of a positive conception of protection. Developing a clearer typology of protective practice to cast light on the depth and characteristics of protection thus provides an important advancement and a means of exposing how the logic of externalisation and attenuated solidarity shape inward protective practices.

When transposed onto inward refugee protection, negative protection can be conceived as a corollary of negative security. Conditions of negative protection are produced by a protector acting to shelter a protected individual/population from immediate threats to life but going no further than this to facilitate their well-being, to understand more individualised protection requirements, or to empower them to achieve a fuller sense of security through self-actualisation. It reflects a practical manifestation of attenuated solidarity, where a minimal form of protection is offered from immediate harm, but where protective practice does not suggest a fuller concern for the protected as morally equal human beings and conceives them as external to the state's moral community and its networks of solidarity, care, and mutual support.

Conversely, positive practices of protection are those that provide a significantly deeper level of protection and a more fully developed solidarity with those protected. Positive protection emphasises the protector's responsibility to create enabling conditions conducive to human flourishing for those under their protection. Whilst positive protection may encompass a repertoire of different

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International Studies, 38:4 (2012), pp. 835–59; Jonna Nyman, 'What is the value of security? Contextualising the negative/positive debate', *Review of International Studies*, 42:5 (2016), pp. 821–39; Gunhild Gjorv and Ali Bilgic, *Positive Security: Collective Life in an Uncertain World* (London: Routledge, 2022).

[35]Johan Galtung, 'Violence, peace and peace research', *Journal of Peace Research*, 6:3 (1969), pp. 167–191 (p. 183).

[36]McSweeney, *Security, Identity and Interests*, p. 14; Gjorv, 'Security by any other name', p. 839.

[37]Galtung conceives structural violence as forms of violence that are built into societal structures and manifest in unequal power and unequal life chances. They often manifest as harms that are embedded in the everyday and are less immediately visible than direct physical violence.

[38]Booth, *Theory of World Security*, p. 102.

[39]McSweeney, *Security, Identity and Interests*, p. 14; Booth, *Theory of World Security*, p. 112; Gjorv, 'Security by any other name', p. 843; Nyman, 'What is the value of security?', p. 826.

[40]Booth, *Theory of World Security*, p. 106.

[41]Goodwin-Gill, 'The language of protection'; Fortin, 'The meaning of "protection"'.

[42]Story, 'The meaning of "protection"', p. 14.

context-specific protective practices, these can be guided by core principles – enabling practices that help forge social bonds, develop individual capacities, and recognise human commonalities. Connections can also be drawn between positive protection and an ethos of care. For Robinson, all human life is ultimately dependent on the care provided by others at some point, and the autonomy we enjoy as individuals is always relational, as the notion of 'isolated, self-reliant moral selves does not adequately reflect people's lived experience in most communities around the world'.[43] Positive protection must embody the notion that human beings thrive best and are most effectively protected in interdependent communities through which care and mutual support can be practised. Protection in this conception is reframed away from a strongly vertical power relationship between protector and protected to one based on mutuality and solidarity as part of a collective. In the context of inward protection, positive protection would align with Goodwin-Gill's conception of the central purpose of the international refugee-protection regime – to re-establish the refugee within a community.[44] A repertoire of positive protective practices, which aim to foster enabling conditions for human flourishing, is difficult to pursue without embedding protected individuals/populations within established communal networks and rejecting the logic of externalisation.

Negative protection and the British asylum system

This typology of negative and positive protection can be used to demonstrate how protected refugee populations frequently remain chronically vulnerable even when ostensibly 'protected', but also how systems of protection can themselves be responsible for imposing forms of violence in attempts to keep refugees external to the wider community. The British asylum system provides an insightful example of how divergent interpretative backdrops – cosmopolitan-like rhetorical commitments to refugee protection and a domestic interpretative backdrop of long-term hostility towards asylum seekers – produce attenuated solidarity and a resultant architecture of negative protective practices.

The UK has been a consistent proponent of internationalised civilian protection, through participation in humanitarian interventions, diplomatic support for the R2P, and in developing its own high-level civilian-protection strategies.[45] However, the UK has simultaneously 'pruned' its conception of internationalised civilian protection to fit domestic interpretative contexts, with a predisposition towards expeditionary and militarised modes of protection, at the expense of other areas of protective practice such as inward refugee protection.[46] The UK is a signatory to the 1951 Refugee Convention and alludes frequently to its 'proud record' of protecting those fleeing from violence and persecution.[47] However, refugee protection features as a minor presence in UK civilian-protection concepts, relative to monitoring/early-warning techniques, humanitarian relief, diplomatic engagement, peacekeeping, and stabilisation operations.[48] Moreover, the

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[43]Fiona Robinson, 'The importance of care in the theory and practice of human security', *Journal of International Political Theory*, 42:2 (2008), pp. 167–188 (p. 170).

[44]Goodwin-Gill, 'The language of protection', pp. 15–17.

[45]See Foreign & Commonwealth Office, *The UK Government's Strategy on the Protection of Civilians in Armed Conflict* (London: FCO, 2011); Jason Ralph, *Mainstreaming the Responsibility to Protect in UK Strategy* (London: United Nations Association UK, 2014); Foreign Affairs Committee, 'Global Britain. The responsibility to protect and humanitarian intervention: Government's response to the Committee's Twelfth Report', HC1719 (London: House of Commons, 2018); Department for International Development, Foreign and Commonwealth Office & Ministry of Defence, 'Policy Paper: UK Approach to Protection of Civilians in Armed Conflict' (2020), available at: {https://www.gov.uk/government/publications/uk-paper-on-the-approach-to-protection-of-civilians-in-armed-conflict/uk-approach-to-protection-of-civilians-in-armed-conflict}; Kate Ferguson, 'For the wind is in the palm trees: The 2017 Rohingya crisis and an emergent UK approach to atrocity prevention', *Global Responsibility to Protect*, 13:2–3 (2021), pp. 244–71.

[46]Chloe Gilgan, 'Human rights localisation in liberal states: The UK's responsibility to protect as regime change and political transition in Syria', *International Journal of Human Rights*, 25:9 (2021), pp. 1471–75; Edward Newman, 'Exploring the UK's doctrine of humanitarian intervention', *International Peacekeeping*, 28:4 (2021), pp. 632–60; Ferguson, 'For the wind is in the palm trees'.

[47]HM Government, *New Plan for Immigration: Policy Statement*, CP412 (London: HM Government, 2021), p. 11.

[48]Foreign Affairs Committee, 'Global Britain', p. 8; DFID/FCO/MOD, 'UK approach to protection of civilians in armed conflict'.

emergence of humanitarian intervention within the UK's foreign policy repertoire in the late 1990s occurred in an ironic parallel to increasingly punitive domestic provisions on asylum during the same period.[49] Attenuated solidarity based on the location of protection has become embedded in the UK's asylum system, and its practices construct a consistently 'hostile environment' for those seeking internationalised protection within the UK.

The term 'hostile environment' is associated primarily with the Immigration Acts of 2014 and 2016, which radically reduced the ability of those with precarious immigration status to access basic social goods, and were noted for their acutely harmful impact on the Windrush Generation – first-generation, predominantly Caribbean immigrants.[50] However, these policies were themselves constituent components of a longer-standing assemblage of hostile immigration and asylum policies, around which there is a broad bipartisan consensus.[51] Since the early 1990s, legislation enacted by successive governments has incrementally weakened asylum-seeker access to various forms of welfare, social protection, and connection with the local communities in which they live.[52] This policy assemblage is formed against an interpretative backdrop characterising asylum seekers as an 'undeserving poor' or 'culpable subjects', who present an undue and illegitimate burden to the British state.[53] This longer-standing 'hostile environment' for inward protection both embodies the attenuated solidarity towards those seeking protection and inflicts on them foreseeable conditions of structural violence, in particular by constraining their access to housing, financial support, and employment, each of which are important precursors for positive protection.

Successive Acts of Parliament have imposed stringent limitations on physical location and access to housing for those claiming asylum, deliberately constraining their ability to flourish as members of local communities and access networks of communal support. The 1993 Asylum and Immigration and Appeals Act and the 1996 Asylum and Immigration Act reduced statutory duties on local authorities to accommodate homeless asylum seekers and removed their right to register for local-authority social housing, constraining access to a basic social protection available to other UK residents.[54] These limitations were subsequently offset by Section 95 of the 1999 Immigration and Asylum Act, which introduced statutory responsibilities for the Home Office to house destitute asylum seekers. However, this was implemented through a practice of 'dispersal', relocating destitute asylum seekers on a no-choice basis to specified 'reception zones' across the UK, ostensibly to reduce public-service strain in south-east England.[55] Dispersal practices have frequently placed asylum seekers in already-deprived communities, with the risk of them becoming scapegoated as a drain on public services and subject to hostility from pre-existing residents.[56] It reflects an understanding of those seeking inward protection as a moveable and dilutable burden on public services,

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[49]Tony Blair, 'Doctrine of the international community', speech given at the Economic Club, Chicago, 24 April 1999; Immigration and Asylum Act, 1999. See also Bulley, 'Home is where the human is?'.

[50]James Kirkup and Robert Winnett, 'Theresa May interview: "We're going to give illegal migrants a really hostile reception"', *The Daily Telegraph* (25 May 2012), available at: {https://www.telegraph.co.uk/news/uknews/immigration/9291483/Theresa-May-interview-Were-going-to-give-illegal-migrants-a-really-hostile-reception.html}; Frances Webber, 'On the creation of the UK's "hostile environment"', *Race & Class*, 60:4 (2019) pp. 76–87; Wendy Williams, *Windrush Lessons Learned Review*, HC93 (London: House of Commons, 2020).

[51]Williams, *Windrush Lessons Learned Review*, pp. 52–3.

[52]The assemblage of policies that constitutes the broader 'hostile environment' for inward protection, can be seen to begin with the Asylum and Immigration Appeals Act 1993 and continues in the provisions of the recent Nationality and Borders Act 2022 and Illegal Migration Act 2023.

[53]Rosemary Sales, 'The deserving and the undeserving? Refugees, asylum seekers and welfare in Britain', *Critical Social Policy*, 22:3 (2002), pp. 456–478; Squire, *The Exclusionary Politics of Asylum*; Mayblin, *Colonial Legacies in the Politics of Asylum Seeking*; Lynne Poole and Irene Rafanell, 'Exercising "bad faith" in the asylum policy arena', *Sociological Research Online*, 23:2 (2018), pp. 291–3.

[54]Asylum and Immigration and Appeals Act 1993, Sec 4; Asylum and Immigration Act 1996: Sec 9.

[55]Immigration and Asylum Act 1999, Sec 101.

[56]Audit Commission, *Another Country: Implementing Dispersal under the 1999 Immigration and Asylum Act* (London: Audit Commission, 2000); Alice Bloch and Liza Schuster, 'At the extremes of exclusion: Deportation, detention and dispersal', *Ethnic and Racial Studies*, 28:3 (2005), pp. 491–512 (p. 508); Squire, *The Exclusionary Politics of Asylum*, pp. 132–9. The early period

rather than vulnerable human beings with needs beyond immediate physical protection. It is also significantly at odds with a positive conception of protection, realised through the embedding of individuals in supportive communal networks of care and mutual support.

Disconnection from supportive community networks by forced dispersal is exacerbated by the poor quality of accommodation provided by COMPASS, the consortium of private contractors providing dispersed accommodation, a problem itself worsened by austerity cutbacks in the early 2010s.[57] Despite the replacement of COMPASS by other private-sector providers in 2019, poor-quality accommodation and disconnection from potentially supportive social networks have similarly been evident in the long-term use of 'contingency' or 'bridging' accommodation for new asylum seekers and refugees.[58] Overcrowding, insanitary conditions, extended detention in inappropriate accommodation, outbreaks of communicable disease, and failure to safeguard children and those experiencing mental health crises have been have been evident at asylum-screening and contingency accommodation centres at Napier Barracks and Manston, both in Kent.[59] At the Manston centre, concerns about conditions resulted in a rapid reaction visit in November 2022 from the Council of Europes Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.[60] Problems of inappropriate accommodation, limited safeguarding provisions, and exposure to communicable disease have also been evident in the practice of using hotels as an increasingly long-term form of 'bridging accommodation' for asylum seekers and refugees.[61] Long-term hotel accommodation was a particular experience of Afghan refugees received as part of the UK's 'Operation Warm Welcome', following the Taliban takeover in August 2021.[62]

Precarious accommodation conditions experienced by asylum seekers in the UK are frequently prolonged once refugee status has been awarded by policies that obstruct access to housing and increase the likelihood of homelessness. Once recognised as a refugee, the accommodation support provided to destitute asylum seekers terminates abruptly, leaving only a 28-day 'move on' period from asylum-seeker housing. Few newly recognised refugees have savings for a rental deposit and, when disconnected from potentially supportive community networks due to the dispersal process, they are at an accentuated risk of homelessness.[63] Access to rented housing for new refugees is additionally obstructed by the 'right to rent' provisions of the Immigration Acts of 2014 and

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of the dispersal programme was marked by violence against asylum seekers in the Sighthill area of Glasgow (2001) and the Caia Estate in Wrexham (2003).

[57] National Audit Office, *COMPASS Contracts for the Provision of Accommodation for Asylum Seekers*, HC 880 (London: NAO, 2014); Jonathan Darling, 'Asylum in austere times: Instability, privatization and experimentation within the UK asylum dispersal system', *Journal of Refugee Studies*, 29:4 (2016), pp. 483–505; Home Affairs Committee, *Asylum Accommodation: Twelfth Report of Session 2016–17*, HC 637 (London: House of Commons, 2017); Home Affairs Committee, *Asylum Accommodation: Replacing COMPASS. Thirteenth Report of Session 2016–17*, HC 1758 (London: House of Commons, 2018).

[58] For a detailed account of the fragmentation in provision associated with COMPASS and its aftermath, see Jonathan Darling, *Systems of Suffering* (London: Pluto Press, 2022), pp. 93–116.

[59] David Neal, *An Inspection of Contingency Asylum Accommodation: HMIP Report on Penally Camp and Napier Barracks* (London: Independent Chief Inspector of Borders and Immigration, 2021), pp 16–26; David Neal, 'Oral evidence: Channel crossings' (Home Affairs Committee, HC 822, 26 October 2022), Q112-123.

[60] Council of Europe, 'Council of Europe anti-torture committee visits the United Kingdom' (28 November 2022), available at: {https://www.coe.int/en/web/cpt/-/council-of-europe-anti-torture-committee-visits-the-united-kingd-5}.

[61] Refugee Council, *Lives on Hold: Experiences of People Living in Hotel Asylum Accommodation* (London: Refugee Council, 2022); Helena Kennedy (Chair), *Independent Commission of Inquiry into Asylum Provision in Scotland: Part Two* (Edinburgh: ICIAPS, 2022), pp. 14–20.

[62] Amelia Gentleman, and Helen Pidd, 'Afghan refugees may be housed in UK hotels for up to a year, say councils', *The Guardian* (21 October 2021), available at: {https://www.theguardian.com/world/2021/oct/21/afghan-refugees-may-be-housed-in-uk-hotels-for-up-to-a-year-say-councils}; Melanie Gower, *UK Immigration Routes for Afghan Nationals* (London: House of Commons Library, 2022), pp. 22–4.

[63] Josephine Basedow and Lisa Doyle, *England's Forgotten Refugees: Out of the Fire and into the Frying Pan* (London: Refugee Council, 2016); All Party Parliamentary Group on Refugees, *Refugees Welcome? The Experience of New Refugees in the UK* (London: APPG, 2017).

2016, which imposed new obligations on landlords to verify the immigration status of their tenants and powers to evict those without appropriate immigration status. Although these provisions were not directed specifically at refugees, the infusion of border surveillance into everyday life and the legal requirements for non-specialists such as residential landlords to engage in micro-practices of border policing, create significant openings for discrimination against refugees.[64]

By limiting access to accommodation and networks of social support in the wider community, including from established refugee or diaspora communities, the logic of externalisation and the attenuation of solidarity is reproduced. Even when admitted into UK territory for the purposes of protection, refugees and asylum seekers become deliberately isolated from key points of social anchorage ordinarily enjoyed by members of the national community. As an embodiment of negative protection, those seeking refuge in the UK are provided immediate physical protection but are simultaneously subjected to deliberately constructed state policies, which limit their access to vital social goods necessary to flourish as human beings – in this case quality housing and the ability to embed themselves within a wider community.

Negative protection is similarly demonstrated in the UK practice of excluding asylum seekers from accessing the labour market, whilst simultaneously providing them with very limited financial support. Benefits provision and access to paid employment exist at an intersection between the UK's commitments to internationalised protection and a domestic interpretative backdrop that represents asylum seekers as an 'undeserving poor', parasitic on the interests of the 'native' working-class population, as competitors for dwindling welfare provision in the neoliberal rolling back of the state.[65] Parsimonious financial support for asylum seekers and their exclusion from the labour market are premised on a deterrence logic and unsubstantiated assumptions of benefits as a 'pull factor' for economic migrants who fraudulently pose as refugees.[66] This is reflected in the language used by recent political elites to describe certain categories of asylum seekers – 'gaming the system', 'getting one over on us', 'push their way to the front of the queue', and 'economic migrants pretending to be genuine refugees'.[67] This connection has been expressed most starkly in then Home Secretary Suella Braverman's claim that 'one of the most significant but underappreciated factors contributing to the global migration crisis is the global asylum framework', with the 1951 Convention framework representing a 'a promissory note that the West cannot fulfil … incentivising millions of people to try their luck'.[68] This marks a significant attempt to shift the interpretative backdrop, from refugee protection as a legitimate regime often abused by economic migrants, towards an understanding of the regime itself as the primary vehicle for irregular economic migration.

As with access to housing, the logic of externalisation drives policies which exclude vulnerable non-citizens, even when ostensibly protected in the UK, from common sites of connection with the national community. Starting with the 1993 Asylum and Immigration Appeals Act, legislation has incrementally reduced financial support provided to asylum seekers, relative to general levels of welfare typically available to other UK residents, arriving at a level 'not any more than the absolute minimum required by human rights law'.[69] A predictable consequence has been widespread destitution amongst asylum seekers, driven by ineligibility for paid employment, low levels of financial

[64] Joint Council for the Welfare of Immigrants, *No Passport Equals No Home: An Independent Evaluation of the 'Right to Rent' Scheme* (London: JCWI, 2015), pp. 56–7; Independent Chief Inspector of Borders and Immigration, *An Inspection of the Right to Rent Scheme* (London: ICIBI, 2018), pp. 45–7.

[65] Chimni, 'A geopolitics of refugee studies'; Sales, 'The deserving and undeserving'; Mayblin, *Colonial Legacies in the Politics of Asylum Seeking*; Robbie Shilliam, *Race and the Undeserving Poor* (Newcastle upon Tyne: Agenda Publishing, 2018).

[66] Lucy Mayblin, 'Complexity reduction and policy consensus: Asylum seekers, the right to work, and the "pull factor" thesis in the UK context', *British Journal of Politics and International Relations*, 18:4 (2016), pp. 812–28.

[67] Patel, 'Oral statement to Parliament'; Philip, 'Oral statement to Parliament'.

[68] Suella Braverman, 'Speech to the American Enterprise Institute', Washington, DC, 26 September 2023.

[69] Mayblin, *Colonial Legacies in the Politics of Asylum Seeking*, p. 150; Eve Dickson and Rachel Rosen, 'Punishing those who do the wrong thing: Enforcing destitution and debt through the UK's family migration rules', *Critical Social Policy*, 41:4 (2021), pp. 545–65.

support, recurrent delays in the provision of benefits, and an overly complex application process.[70] In addition to the direct mental and physical health impacts of enforced destitution, exclusion from the labour market accentuates the disconnection of asylum seekers from wider networks of solidarity, support, and companionship that may be associated with the workplace.

Formed against the backdrop of the populist nationalism of the Johnson government and anxieties about small boat crossings of the English Channel, further moves towards scaling back financial support and increasing precarity have been manifested in the 'New Plan for Immigration' and the 2022 Nationality and Borders Act.[71] The Act formalises differential treatment of asylum seekers based on their mode of arrival in the UK, with provisions for potentially more favourable treatment for those who have travelled directly, and making those who have passed through a 'safe third state' on their journey to the UK 'inadmissible' to the asylum system.[72] The 'New Plan for Immigration' envisages that if 'inadmissible' asylum seekers cannot be returned to either another safe country or their country of origin, a 'temporary protection status' will be offered. This protection will be time limited to 30 months, with no automatic right to settle in the UK, no family reunion rights, and no recourse to public funds, except in cases of destitution.[73] The implications are of a deliberately insecure, liminal condition for 'inadmissible' asylum seekers, unable to access employment, provided with only minimal welfare support, isolated from family, and prevented from settling permanently into a new community. The 'two tier' system of protection formalised by the Act provides a deliberately variable depth of protection, enhancing support for the relatively small number of refugees selected for resettlement, whilst accentuating precarity and creating conditions deliberately unconducive for human flourishing for the significantly greater numbers who have travelled through Europe on their journey to claim asylum in the UK.

Britain's asylum policy assemblage embodies the ironic condition of negative protection, where refugees are protected from immediate harm but simultaneously made acutely vulnerable to deliberate (or at least foreseeable) structural violence. This finds material expression in the destitution associated with constrained access to employment and housing, but also the less immediately tangible psychological harms produced by isolation and marginalisation from networks of social interaction and community that are associated with employment and stable housing. These negative protective practices reify attenuated solidarity with the intended beneficiaries of protection and construct a clear power hierarchy between protector and protected, with the protector (the British state and its agents) solely responsible for defining the nature and meaning of protection.[74] Conversely, the agency of refugees or asylum seekers is minimised, and consideration of their qualitative experiences of protection largely excluded.

Many of the practices that constitute Britain's 'hostile environment' are mirrored across Europe and beyond, and more comparative examination is required of the techniques through which inward protection is deliberately limited by practices of negative protection. The key contribution of the negative and positive protection typology advanced here is to ask probing questions about whether internationalised protective practices actually protect their intended beneficiaries, and whether they can in fact contribute to significant forms of harm. The expansion of civilian-protection concepts, whether in relation to expeditionary or inward modes of protection, has provided little systematic examination of these questions, leaving them largely to the discretion of the states assuming the role of internationalised protector. The next section examines the concept of positive protection and some of its emerging manifestations in both state and civil society practice.

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[70]Morag Gillespie, *Trapped: Destitution and Asylum in Scotland* (Glasgow: Scottish Poverty Information Unit, Glasgow Caledonian University, 2012); Refugee Action, *Slipping through the Cracks: How Britain's Asylum System Fails the Most Vulnerable* (London: Refugee Action, 2017); Refugee Survival Trust and British Red Cross, *How Will We Survive? Steps to Preventing Destitution in the Asylum System* (London: British Red Cross/Refugee Survival Trust, 2021).

[71]See HM Government, *New Plan for Immigration*.

[72]Nationality and Borders Act 2022, Sec 12, Sec 15. The terminology of Group 1 and Group 2 refugees is used in the Act.

[73]HM Government, *New Plan for Immigration*, p. 20.

[74]See Huysmans, 'Agency and the politics of protection'.

Typologies of protection: Conceiving a positive practice of protection

The negative-protection typology illustrates how states ostensibly supportive of inward protection can also institute practices that hollow out the experience of protection and act against the spirit of their international commitments. The logical extension of this typology is to explore current manifestations of positive protection. At its core, a positive conception of protection emphasises the protector's responsibility to create enabling conditions conducive to human flourishing for those under their protection. This form of protection is best realised through embedding refugees in communal networks of care and mutual support, from where the typically vertical power relationship between protector and protected may be renegotiated. Although less clearly evident than negative protection, tentative manifestations of thinner and thicker forms of positive protection for refugees have become evident.

In its thinnest form, positive protection would require that a state's asylum regime did not deliberately institute policies that caused structural harm to those seeking protection. Tentative movements towards this are evident in the greater consideration of the economic and social well-being of refugees and asylum seekers in recent UN and EU policy approaches. The UN 'New York Declaration for Refugees and Migrants' of 2016, makes explicit reference to a 'humane, sensitive, compassionate and people-centred' approach to refugee and migrant reception.[75] The declaration makes direct commitments to the provision of education, healthcare, shelter, and access to labour markets as a basis to support refugees' 'self-reliance and resilience'.[76] Positive protective elements are similarly indicated in commitments to 'encourage and empower refugees … to establish supportive systems and networks that involve refugees and host communities', reflecting a nascent sense of the connection between inward protection and social embeddedness.[77] Significantly, the declaration also moves to collapse the distinction between migrants and recognised refugees by affirming all people on the move as rights holders, irrespective of status.[78] In the UK case study, the absence of recognised refugee status and the entrenched suspicion of economic motives for migration are frequently used to justify negative protection for asylum seekers. Similar tentative moves towards limiting the exposure of refugees to deliberately structurally violent conditions, are also evident in the EU's incremental expansion of its 'standards for the reception of applicants for international protection', emphasising provision of 'an adequate standard of living for applicants which guarantees their subsistence and protects their physical and mental health'.[79] This includes access to labour markets, appropriate accommodation and continuity of residence location, education/vocational training, and healthcare.[80] Whilst making encouraging movements towards limiting structurally violent practices of negative protection, developments at both the UN and the EU still leave considerable latitude to states in defining how these commitments are interpreted. In the case of the EU, there is also explicit reservation of the right to afford asylum seekers less favourable access to welfare systems than co-nationals, providing a normative reinforcement of attenuated solidarity with protected people.[81] Rather than deepening inward protection towards a more positive conception, these developments could be interpreted as reactive attempts to reassert basic elements of the 1951 Refugee Convention and to mitigate the growth of negative protection

[75]United Nations General Assembly, 'New York Declaration for Refugees and Migrants', A/RES/71/1 (New York: United Nations, 2016), pp. 2–3.

[76]Ibid., pp. 14–15.

[77]Ibid., p. 18; this is augmented by a more detailed focus on refugee welcome and integration in United Nations, *Global Compact on Refugees* (New York: United Nations, 2018), pp. 38–40.

[78]UN General Assembly, 'New York Declaration for Refugees and Migrants', p. 8; baseline provision of economic and social rights for all migrants, irrespective of specific immigration status, has also been affirmed in UN Economic and Social Council, 'Duties of states towards refugees and migrants under the International Covenant on Economic, Social and Cultural Rights', E/C.12/2017/ (New York: United Nations, 2017), p. 3.

[79]Official Journal of the European Union, 'Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013, laying down standards for the reception of applicants for international protection', Article 17(2), p. L180/104.

[80]Ibid., Articles 7–19, pp. L180/100-106.

[81]Ibid., Article 17(5), p. L180/105.

in state practice.[82] By retaining significant latitude for state interpretations, space is still created for exclusionary interpretative backdrops to generate continuing attenuated solidary and further negative practices of protection.

Thicker conceptions of positive protection move beyond the baseline of avoiding inflicting deliberate structural harm, towards re-establishing refugees and asylum seekers within communal networks, through which they may expand their individual capacities necessary for human flourishing. The boundaries of what might be considered positive practices of protection are necessarily fluid, given the divergent contexts of receiving states and their refugee populations. However, in all contexts thicker conceptions reflect an idea of protection as experienced through embeddedness in societal networks of solidarity, reciprocity, and mutual support, rather than as the hierarchical and contingent 'gift' of the protector state. Tentative empirical practices of positive protection can be seen in the activities of civil society refugee solidarity groups, who come to fill the gap left by negative protective practices. One such movement is UK City of Sanctuary, a federated network of local town and city groups formed in 2005, who work to build supportive links between their communities and the refugees and asylum seekers located there. Their practices focus on counteracting the social exclusion and marginalisation of refugees and asylum seekers, brought about *both* by displacement from their countries of origin *and* by the negative protection experienced in the UK asylum system. The core objectives of the City of Sanctuary network are to offer a 'culture of welcome and hospitality to all' and to 'create opportunities for relationships of solidarity between local people and those seeking sanctuary'.[83] The concept of welcome contains an intrinsic projection of intimacy, human warmth, and potentially a shared sense of vulnerability that comes from opening up to another on an emotional level.[84] Although the network does not characterise its activities as 'protection', their contribution to positive protection comes through micro-practices of social embedding – forging connections between asylum seekers/refugees and local networks of support, solidarity, and mutual aid, in a way that challenges the structural violence of negative protection. Its work aims at an important affective component of protection – feeling secure as a socially connected human being, with the capability to exercise agency, individually and as part of a larger collective.

The practices of positive inward protection associated with City of Sanctuary are often remarkably banal, especially when compared to more spectacular forms of militarised expeditionary protection. Group walks, conversation classes, well-being sessions, meals together, and supporting local civic spaces – libraries, schools, museums, and universities – in developing pro-refugee policies, constitute City of Sanctuary's everyday micro-practices of positive protection.[85] These practices seek to redress some of the experiences of loneliness, marginalisation, and lack of social connection common to the experience of negative protection by refugees and asylum seekers.[86] They provide a basis for connection with local populations that progresses beyond charity, towards closer bonding relationships and protective emotional support that reshapes ordinarily hierarchical relations between protector and protected. Such practices can be understood as a counter-conduct of care, generated by the entanglement of lives and interdependencies, marking a shift from the hierarchical practice of 'caring-for' towards 'care with others, to be both a recipient and a giver of care'.[87] City of Sanctuary's activities are built around a 'theory of change' that seeks to generate macro-level shifts in societal attitudes to inward protection, as an outgrowth of expanding networks of everyday micro-level relationships between town/city residents and the refugees and

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[82] Articles 17–24 of the 1951 Convention in particular.

[83] City of Sanctuary, 'City of Sanctuary Charter 2017', available at: {https://cityofsanctuary.org/wp-content/uploads/2017/05/Charter_Final-updated-Oct-17-pdf-1.pdf}.

[84] Nick Gill, 'The suppression of welcome', *Fennia*, 196:1 (2018), pp. 88–98 (p. 91).

[85] The range of activities typically associated with local City of Sanctuary groups can be seen on their website, available at: {https://cityofsanctuary.org/}.

[86] Basedow and Doyle, *England's Forgotten Refugees*, p. 31; APPG on Refugees, *Refugees Welcome?*, p. 43.

[87] Darling, *Systems of Suffering*, p. 176. See also Cathy Wilcock, 'Hostile immigration policy and the limits of sanctuary as resistance: Counter-conduct as constructive critique', *Social Inclusion*, 7:4 (2019), pp. 141–51.

asylum seekers who live there.[88] Viewed this way, the encounter between local populations and protected people can transform typically insecure and negative spaces into protective spaces.[89] This corresponds with Gjorv and Bilgic's conception of positive security (or in the context of this article protection), as forged in agonistic moments of 'encounter' with the other, where established subject positions of self/other, citizen/foreigner, or inside/outside become destabilised, and from which practices of protection may be reconceived on a less exclusionary footing.[90] Banal, localised, and everyday forms of positive social interaction destabilise the attenuated solidarity that underlies that UK government's approach to inward protection, replacing it with a fuller sense of solidarity with those protected and potentially forming an alternative interpretative backdrop for internationalised protection in the UK.

The practices of City of Sanctuary are premised on developing a sense of radical inclusivity and equality for refugees and asylum seekers within local communities, even if this is not reflected in their formal legal status. Sanctuary movements, in the UK and elsewhere in Europe, have been theorised as a means through which those with precarious immigration status, whether refugees/asylum seekers or not, might assert a sense of 'rightful presence' in a particular locale.[91] This challenges the logic of externalisation and the practices of negative protection by conceiving community membership as something assumed through everyday participation in social and cultural life, rather than as defined by an often precarious and conditional legal status. In doing so, attenuated solidarity, identities of guest and host, and the power inequalities that exist between protector and protected, which are reified by the UK asylum regime, can begin to be deconstructed. By embedding refugees and asylum seekers within social networks of solidarity and support necessary for human flourishing, movements like UK City of Sanctuary offer a form of positive protection that is horizontally organised and where the recipients of protection actively participate in shaping the protective environment, rather than existing as passive and non-agential recipients of the state's conditional benevolence. Whilst presenting encouraging evidence of a widened scope of possible protective practice, City of Sanctuary has been critiqued as presenting an ambiguous, rather than fully transformational, challenge to the exclusionary orthodoxies of the UK asylum system and, in some cases, perpetuating the liminal state of waiting that is characteristic of negative protection.[92] In this respect, the practices of UK City of Sanctuary might be better understood as an imperfect and unfinished empirical example of positive protection.

Encouragingly, a focus on participation in the cultural life of the community, as intrinsic to the well-being of refugees and asylum seekers, has emerged in sub-state strategies for refugee protection in Scotland. Reflecting a similar methodology to the City of Sanctuary approach, the 'New Scots Refugee Integration Strategy' focuses on a process of positive change that 'places refugees and asylum seekers at the heart of the communities in which they reside' and leads to a two-way reshaping of both refugee/asylum seekers and local communities into cohesive, multicultural societies.[93] Reflecting a positive imagination of protection, the approach combines economic and social rights provision with efforts to embed protected people within a wider community of solidarity and

[88]City of Sanctuary, 'Theory of change: Social contact movement building', 2020, available at: {https://cityofsanctuary.org/wp-content/uploads/2020/02/COS-Theory-of-Change-10-1-20.pdf}.

[89]Jani Vuolteenaho and Eveliina Lyytinen, 'Reflections on the variations and spatialities of (un)welcome: Commentary to Gill', *Fennia*, 196:1 (2018), pp. 118–123 (p. 121).

[90]Gjorv and Bilgic, *Positive Security*, pp. 69–91.

[91]See Vicki Squire, 'From community cohesion to mobile solidarities: The *City of Sanctuary* Network and the *Strangers into Citizens* campaign', *Political Studies*, 59:2 (2011), pp. 290–307; Vicki Squire and Jonathan Darling, 'The "minor" politics of rightful presence: Justice and relationality in *City of Sanctuary*', *International Political Sociology*, 7:1 (2013), pp. 59–74; Jonathan Darling, 'From hospitality to presence', *Peace Review*, 26:2 (2014), pp. 162–69; Wanda Vrasti and Smaran Dayal, 'Cityzenship: Rightful presence and the urban commons', *Citizenship Studies*, 20:8 (2016), pp. 994–1011; Adrian Mosselson, 'Cities of sanctuary in environments of hostility: Competing and contrasting migration infrastructures', *Antipode*, 53:6 (2021), pp. 1725–44.

[92]Squire and Darling, 'The "minor" politics of rightful presence'; Jennifer Bagelman, 'Sanctuary: A politics of ease?', *Alternatives*, 38:1 (2013), pp. 49–62.

[93]Scottish Government, *New Scots Refugee Integration Strategy* (Edinburgh: Scottish Government, 2018), pp. 11–12.

mutual support. As with developments in the UN dialogue on refugees and migrants, the strategy also contains a deliberate minimisation of distinctions between refugee and asylum seeker in relation to support offered, challenging the status boundaries that are deeply intertwined with negative protection in the wider UK.

These nascent movements towards positive protection have important limitations in their encounter with powerful exclusionary interpretative backdrops and bureaucratic regimes that continue to attenuate solidarity and produce practices of negative protection.[94] The widened imagination of protection derived from City of Sanctuary and similar refugee solidarity movements is not a novel addition to the protective capacities of a state, rather an indication of its significant shortcomings in inward protection. Although Scottish authorities have significant day-to-day capabilities to pursue positive protective practices, immigration and asylum remains a reserved matter for the Westminster government. Consequently, Scottish innovations in protective practice are juxtaposed awkwardly against the broader hostile environment for internationalised protection in the UK. Nevertheless, innovations by local authorities and civil society organisations demonstrate the ways that protection can be practiced differently, in a less hierarchical format and as a fuller reflection of the ethos of trans-border moral solidarity upon which internationalised protection is ultimately founded.

Conclusion

The expansion of civilian-protection discourse in the 1990s and early 21st century raises important questions about where internationalised protection occurs, the level of solidarity afforded to its recipients, and the practices through which they are protected. Civilian-protection concepts emerging during this period have been largely dominated by *expeditionary* approaches, such as humanitarian intervention, expanded roles for UN peacekeepers, and the Responsibility to Protect, where protection occurs externally to the borders of the states assuming the role of internationalised protector. This is ostensibly different to traditional practices of refugee protection, where protection is *inward*, occurring within the borders of states taking on protective responsibilities. However, inward protection is the site of a problematic intersection between conflicting interpretative backdrops, against which contemporary practices of internationalised protection are formed. On the one hand is the cosmopolitan-minded ethical outlook associated with civilian protection, affirming moral solidarity with vulnerable non-citizens. On the other hand are the exclusionary domestic interpretative backdrops that have emerged in parallel, of hostility to immigration and a conflation of asylum seekers with economic migrants. This intersection produces a sense of attenuated solidarity, wherein moral concern for vulnerable populations becomes diminished the closer they come to the borders of Western states, and a logic of externalisation, which seeks to keep protected people distant from the societies ostensibly offering protection.

Attenuated solidarity and the logic of externalisation flow through into a repertoire of practices to keep those able to access internationalised protection within Western state borders in a liminal and marginalised position, physically present but socially disconnected from the societies in which they have sought protection. In the UK, this has become manifest in hostile policy environments that subject refugees and asylum seekers to varying degrees of precarity, through a combination of material deprivation and social exclusion. This can be conceptualised as *negative protection* – a liminal and precarious state where vulnerable non-citizens are protected from immediate occurrences of persecution, human rights abuse, and/or mass atrocity crime but are subject to deliberately constructed forms of structural violence and marginalisation. This conceptualisation of negative protection as an assemblage of harmful and regressive practices, creates openings for a typology of *positive protection*. As an inversion of negative protection, positive protection consists of practices that develop conditions conducive to human flourishing and the reconnection of refugees

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[94]See Gill, 'The suppression of welcome', pp. 91–3.

with a supportive social context. It involves the recognition that people protected from immediate physical harm whilst simultaneously marginalised, socially excluded, and made vulnerable to structural violence are not being protected in a meaningful sense. Positive protection is premised on the fuller realisation of trans-border human solidarity by reconceiving the relationship between protector and protected. It reflects a shift from internationalised protection as a vertical power relationship – where protection is the benevolent and conditional gift of the protector state – towards a horizontal relationship where protection is experienced collectively through embeddedness in networks of social solidarity, care, and mutual support. Although tentative and imperfect, recent developments in the international refugee regime suggest some incremental acknowledgement of the importance of a more positive conception of protection, and the UK case demonstrates the ways in which this idea is embedded within the practices of refugee-solidarity movements in civil society.

The typology of negative and positive protection developed in this article has a significance beyond the UK case, posing broader questions within internationalised civilian protection about what protection should entail in terms of the depth of solidarity and protection imagined. It provides a basis for considering which communities of practice are responsible for internationalised protection and how the intersection of the cosmopolitan interpretative backdrop of civilian protection, with more exclusionary interpretative frames, can generate disconnects between the normative aims of civilian protection and the protective practices through which they are implemented. It allows for a stronger analytical focus on how different practices of internationalised protection are experienced by the intended beneficiaries, something frequently omitted in debates on the normative basis for the international civilian-protection regime or with whom responsibility for it lies. Concepts of negative and positive protection are not limited to inward forms of refugee protection and could equally be applied to analyse what depth of protection is experienced in expeditionary practices such as humanitarian intervention, stabilisation, or UN peace operations. Beyond academic analysis, the typology also has significant potential as an advocacy tool, to promote a better quality of internationalised protection and to draw attention to how protective practice can be shaped in ways that compromise the normative goals of internationalised protection regimes. This is particularly significant in a period where accelerated instability and forced displacement have coincided with the rise of populist nationalism and nativist interpretative backdrops, which threaten to radically reshape the future scope of internationalised civilian protection.

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