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Is Humanitarian Parole Policy for Afghans and Ukrainians Equitable?: An Intersectional Policy
Analysis of how Identity Dis/advantages Access to Protection

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Abstract

Following the Taliban takeover of Afghanistan in 2021 and the Russian invasion of Ukraine in 2022, the US opened two humanitarian parole programs for Afghans and Ukrainians to seek temporary protection and resettlement in the United States. Using an intersectional public policy analysis framework, this thesis investigates how the language used to discuss identity in humanitarian parole policy disadvantages some and advantages others in the parole process. Findings show that humanitarian parole policy for Afghans and Ukrainians largely ignores the multidimensionality of identity and thereby excludes or disadvantages certain identities, such as stateless persons, from humanitarian protection. This signifies flaws with the humanitarian nature of the policy and prevents it from being truly equitable to those affected by these two crises.

Table of Contents

- Chapter 1: Introduction.....3**
 - Introduction.....3
 - Background on Humanitarian Parole.....4
 - Research Question.....8
- Chapter 2: Theory and Methodology.....9**
 - Theoretical Framework.....9
 - Intersectional Public Policy Analysis.....9
 - Significance.....12
 - Methodology.....14
 - Methodological Approach: Document Analysis.....14
 - Coding System.....15
- Chapter 3: Literature Review.....17**
 - Identity, Equity, and Exclusion in Refugee and Humanitarian Protection Policy.....17
 - Humanitarian Protection following the Afghan and Ukrainian Crises.....21
- Chapter 4: Findings and Discussion.....27**
 - (In)equities and Identity in Greater Humanitarian Parole Policy.....28
 - (In)equities and Identity in Afghan Humanitarian Parole Policy.....35
 - (In)equities and Identity in Ukrainian Humanitarian Parole Policy.....40
 - Humanitarian Parole Policies Compared.....46
- Chapter 5: Conclusion.....51**
- Bibliography.....53**
- Appendix A: Documents Analyzed.....58**
- Appendix B: Notes on the Coding System.....59**

Introduction

In late August of 2021, the news was full of distressing images from Kabul Airport, as Afghan citizens desperately tried to claim seats on some of the last planes out of the country. The Taliban was about to reach Afghanistan's capital, Kabul, and take control of the government. The United States (US) military was hastily evacuating Afghanistan, and they were taking some Afghan citizens with them. Around 120,000 people were airlifted to safety by the US and other allied nations over a period of about 2 weeks.¹

For the around 80,000 Afghans arriving at US military bases, they began the process to receive temporary protection in the United States, applying for humanitarian parole (HP). Only 6 months later, the Russian government would invade the nation of Ukraine, sending Ukrainian citizens fleeing across Europe and around the world. In April of 2022, the US government also opened a humanitarian parole program for Ukrainians to seek temporary protection in the US.

Humanitarian parole, as defined by the Immigration and Nationality Act (INA) of 1952 allows the Attorney General to admit persons to the US on a temporary basis for urgent humanitarian concerns. HP is usually granted for one or two years and allows a foreign national to live and work in the United States legally. Along with refugee status and asylum, HP is one of the main immigration programs that the US uses to provide humanitarian protection to those fleeing persecution and war.

Although these programs are designed to be humanitarian, they still have the capacity to exclude and discriminate based on identity. For example, the United Nations (UN) 1951

¹ Karen DeYoung, Dan Lamothe, John Hudson and Karoun Demirjian, "America's 20-year war in Afghanistan ends as last U.S. military cargo plane lumbers into the sky over Kabul," *The Washington Post* (August 30, 2021), accessible at: https://www.washingtonpost.com/national-security/us-afghanistan-longest-war-ends/2021/08/30/b56153ea-09b8-11ec-9781-07796ffb56fe_story.html.

Convention on the Status of Refugees, which created the international standard for defining a “refugee”, originally limited legally defined “refugees” to Europeans displaced by conflicts prior to 1951. It was not until 1967 that a Protocol removed geographic and temporal limitations for the “refugee” definition. This thesis will explore the HP programs for Afghans and Ukrainians, looking at the way identity impacts admissibility and how that speaks to the equity of these “humanitarian” policies.

Background on Humanitarian Parole

Humanitarian protection of persecuted individuals through legal immigration and resettlement has been a cornerstone of US immigration policy since the end of World War II. Today, this system of protection is largely based on the 1980 Refugee Act, which codified a permanent resettlement system for those persecuted on the basis of their race, religion, nationality, political opinion, or membership of a social group. However, other immigration avenues for humanitarian protection, such as parole, existed prior to this Act and still run parallel to it today. This section will give a brief overview of the history of HP in the US and introduce how it has been employed in recent years to provide protections to two specific populations, Afghans and Ukrainians.

In 1952, the INA established humanitarian parole as an immigration pathway for those of special humanitarian concern to seek protection in the US. In 1956, the executive branch utilized the parole provision for the first time to admit around 40,000 Hungarian refugees following the failed Hungarian Revolution.² Between 1959 and 1962, parole was again used to

² Ruth Ellen Wasem, “More than a Wall: The Rise and Fall of US Asylum and Refugee Policy,” *Journal on Migration and Human Security* 8, no. 3 (September 1, 2020), 249, <https://doi.org/10.1177/2331502420948847>.

admit 250,000 Cuban refugees to the US.³ Though parole is a temporary status, in 1966, Congress passed the Cuban Adjustment Act, which allows Cubans paroled after 1959 and present in the US for over one year to adjust their status to legal permanent residents. During the 1970s and 1980s, parole discretion was again used to admit refugees from Southeast Asia and Eastern Europe. Adjustment Acts were also passed to give these groups legal permanent residency. During this time, parole policy was critiqued for giving too much discretion to the executive branch and for being used for Cold War foreign policy goals, clearly preferencing those fleeing Communist regimes.⁴ These critiques of foreign policy bias fueled the standardization and systemization of refugee admissions through the passage of the 1980 Refugee Act.⁵

The Refugee Act amended geographical and ideological stipulations for refugee status in the INA and instead aligned the US legal definition of a refugee with the UN's 1967 definition. It also outlined a clear process for how refugees will be admitted to and resettled in the US under the supervision of the Office of Refugee Resettlement (ORR). However, since 1980, HP has still been used as a parallel pathway for certain groups of people who may not meet the new legal standard for refugee status. For example, between 1980 and 2011, the US government paroled many religious minorities from the former Soviet Union who were denied refugee status.⁶ Starting in 2014, the CAM parole program allowed Central American minors who had been denied refugee status to be paroled to the US to reunite with family members.⁷

³ Wasem, "More than a Wall: The Rise and Fall of US Asylum and Refugee Policy," 249.

⁴ Meital Waibsnaider, "How National Self-Interest and Foreign Policy Continue to Influence the U.S. Refugee Admissions Program," *Fordham Law Review* 75, no. 1 (October 2006), 397-398.
<https://heinonline.org/HOL/P?h=hein.journals/flr75&i=407>.

⁵ Waibsnaider, "How National Self-Interest and Foreign Policy Continue to Influence the U.S. Refugee Admissions Program," 398.

⁶ Andorra Bruno, "Immigration Parole" (Congressional Research Service, October 15, 2020), 9,
<https://crsreports.congress.gov>.

⁷ Bruno, "Immigration Parole," 10.

This thesis will focus on two recent HP programs, humanitarian parole for Afghans and for Ukrainians. As the Taliban took control of Afghanistan in August of 2021, the US military began Operation Allies Welcome, which evacuated 82,105 Afghan citizens to US military bases in the States and in allied countries.⁸ These evacuees were given the immigration status of Afghan Humanitarian Parolees (AHPs), a status which allows for two years of legal residence in the United States, with the possibility for extension. AHPs were also given full access to the refugee resettlement program, meaning they received the same resettlement benefits and assistance as refugees.

The Biden administration ended the Afghan humanitarian parole and resettlement programs as of October 1st, 2022, stating that all Afghan evacuees still on military bases or vulnerable Afghans in search of protection will be encouraged to instead apply for permanent resettlement as refugees or Special Immigrant Visa (SIV) recipients. The SIV status began in 2006 and it provides permanent residency and an immediate path to citizenship for Afghans who aided or were employed by the US government in Afghanistan. Unlike HP, both refugee and SIV status allow for permanent residency and have a pathway to citizenship. However, these pathways have more stringent requirements for documentation and qualifications, which do not lend well to immediate humanitarian emergencies like that of the Kabul evacuation of 2021. Additionally, the SIV application review is severely backlogged. Even with normal processing times, application approval is estimated to take 628 days.⁹ Humanitarian parole, in contrast,

⁸ U.S. Department of Homeland Security, “DHS Operation Allies Welcome Afghan Evacuee Report” DHS, December 2021, 2. <https://www.dhs.gov/sites/default/files/2022-03/DMO-OSEM%20-%20Department%20of%20Homeland%20Security%20Operation%20Allies%20Welcome%20Afghan%20Evacuee%20Report.pdf>.

⁹ US Department of State, “Report to Congress on Posting of the Afghan Special Immigrant Visa Quarterly Report on the Department of State’s Website,” n.d, Accessible at, <https://travel.state.gov/content/travel/en/us-visas/immigrate/special-immig-visa-afghans-employed-us-gov.html#quarterly>.

offered an expedited way to humanitarian protection and resettlement immediately following humanitarian emergency.

In February of 2022, Russian troops began an invasion and assault on the neighboring nation of Ukraine. This war has spurred the biggest wave of refugees across Europe since World War II.¹⁰ Ukrainians initially fled mostly to neighboring European countries, but some with preexisting tourist visas arrived at US ports of entry and others crossed the US-Mexico border to claim asylum.¹¹ With the growing influx of Ukrainian refugees, on April 25th, 2022, the Biden administration announced the Uniting for Ukraine (U4U) Humanitarian Parole program for Ukrainians. U4U allows Ukrainian citizens to be sponsored by a US legal resident or citizen to resettle temporarily for 1 or 2 years. Unlike AHPs, Ukrainian Humanitarian Parolees (UHPs) do not have access to the same resettlement benefits as refugees, rather, they are eligible for only a few specific resettlement programs.¹² Like AHPs, UHPs status is temporary, with no provisions yet made by the government to offer a route to permanent residence. Just between April and June of 2022, around 39,000 UHPs arrived in the US.¹³ While the Biden administration committed to admitting at least 100,000 UHPs, this number is not a cap and the total number of parolees admitted will likely surpass it.¹⁴

¹⁰ Julian Vierlinger, “UN: Ukraine refugee crisis is Europe’s biggest since WWII,” *Atlantic Council* (April 20, 2022), <https://www.atlanticcouncil.org/blogs/ukrainealert/un-ukraine-refugee-crisis-is-europes-biggest-since-wwii/>

¹¹ Muzaffar Chishti and Jessica Bolter, “Welcoming Afghans and Ukrainians to the United States: A Case in Similarities and Contrasts,” *Migration Policy Institute* (July 13, 2022), <https://www.migrationpolicy.org/article/afghan-ukrainian-us-arrivals-parole>.

¹² Office of Refugee Resettlement, “Benefits for Ukrainian Humanitarian Parolees: Fact Sheet,” ORR (May 2022), <https://www.acf.hhs.gov/orr/fact-sheet/benefits-ukrainian-humanitarian-parolees>

¹³ Chisti and Bolter, “Welcoming Afghans and Ukrainians to the United States: A Case in Similarities and Contrasts.”

¹⁴ Chisti and Bolter.

Research Question

In June of 2022, I began working as a refugee employment coordinator with a VolAg (Voluntary Resettlement Agency) called HIAS New York, that is part of the network of ORR mandated agencies providing refugee resettlement in the United States. Between when I started and when I am writing this thesis in early 2023, the vast majority of our agency's clients have been AHPs and UHPs.

This is a stark change for a VolAg, as agencies like ours are usually primarily focused on resettling legally codified "refugees" and only occasionally support adjacent smaller populations of asylees and parolees. As I've been seeing the ways in which the HP programs and resettlement support has been succeeding and failing Afghans and Ukrainians on the frontlines, I am interested in applying my background in human rights studies to examine and scrutinize these policies.

One area I was especially interested in exploring was that of identity. In my work, I've noticed some demographic categories predominately appearing, while others have been largely absent. For AHPs, the gender ratio seems to lean more towards men, while for UHPs it leans towards women. For both programs, very few people with disabilities or elderly people have come through our agency. For AHPs, the vast majority had worked with the US military in Afghanistan, while UHPs have a much more diverse employment background. Noticing these distinctions made me intrigued to study the role of identity in these policies through an academic lens.

My research question is: How is identity discussed in humanitarian parole policy for Afghans and Ukrainians and how does the positionality of identity unveil greater identity-based

(in)equities in the policy? This will be explored through analyzing and comparing the HP policies for AHPs and UHPs, using intersectional theory to interrogate how certain identities might be advantaged or disadvantaged in the parole process through policy language. “Identity” is defined as the dimensions or characteristics that make someone who they are.¹⁵ These dimensions commonly include markers such as race, gender, religion, and age.¹⁶ In my thesis, I will understand identity through an intersectional lens, meaning that I am acknowledging the multidimensionality of identity and how singular demographic categories interact and intersect to advantage or disadvantage one in society. In the following section, I will elaborate on intersectionality as my theoretical framework for this study and how I will employ it methodologically.

Theory and Methodology

Theoretical Framework

Intersectional Public Policy Analysis

This thesis uses the framework of intersectionality as applied to public policy. My understanding of this framework comes from the Palgrave Handbook of Intersectionality in Public Policy. Intersectionality is originally derived from black feminist theory, being formally coined as a school of thought by Kimberle Crenshaw in 1989. Crenshaw’s analysis centered on examination of the multidimensionality of black women's experiences instead of focusing on only a single axis, such as, race or gender. Crenshaw argues that analyzing the interaction

¹⁵ Cassandra E. Harper, “Identity, Intersectionality, and a Mixed-Methods Approach,” in *Using Mixed-Methods Approaches to Study Intersectionality in Higher Education*, edited by Kimberly A. Griffin and Samuel D. Museus (San Francisco: Wiley Periodicals, 2011), 103. <https://doi.org/10.1002/ir.402>.

¹⁶ Harper, “Identity, Intersectionality, and a Mixed-Methods Approach,” 103-104.

between race and gender is essential to understanding how black women are marginalized from feminist theory and antiracist policy discourse.¹⁷

Since Crenshaw's initial theorization, understandings of intersectionality have evolved and expanded in reference to the field of public policy discourse. The Palgrave Handbook understands intersectionality as a tool to examine how forms of identity and distinctions, such as, race, gender, and class, interact and intersect to make someone especially vulnerable to discrimination.¹⁸

Intersectional scholarship also increasingly examines less common identity markers, such as, age, immigration status, region of residence, religion, ability, and occupation.¹⁹ An intersectional framework acknowledges that human beings are not homogeneous and cannot be understood by a single category, rather, that people are multidimensional and their lived realities are shaped by multiple social dynamics interacting together.²⁰ Further, it stresses that power dynamics create and feed these social dynamics and have the ability to change the social meaning of identities over space and time.²¹

The Palgrave Handbook situates intersectionality in relation to public policy in how it seeks to answer this question posed by Tiffany Manuel:

How do gender, race, class, and other forms of identity and distinction, in different contexts, shape not only the way that we view policies meant to improve

¹⁷ Kimberle Crenshaw, "Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics," *University of Chicago Legal Forum* 1989, no. 1 (1989): 140, <http://chicagounbound.uchicago.edu/uclf/vol1989/iss1/8>.

¹⁸ Tiffany Manuel, "How Does One Live the Good Life?: Assessing the State of Intersectionality in Public Policy," In *The Palgrave Handbook of Intersectionality in Public Policy*, edited by Olena Hankivsky and Julia S. Jordan-Zachery, (Cham: Springer International Publishing, 2019), 34-40, <https://doi.org/10.1007/978-3-319-98473-5>.

¹⁹ Manuel, "How Does One Live the Good Life?: Assessing the State of Intersectionality in Public Policy," 41.

²⁰ Olena Hankivsky and Julia S. Jordan-Zachery, "Introduction: Bringing Intersectionality to Public Policy." In *The Palgrave Handbook of Intersectionality in Public Policy*, edited by Olena Hankivsky and Julia S. Jordan-Zachery, (Cham: Springer International Publishing, 2019), 7. <https://doi.org/10.1007/978-3-319-98473-5>.

²¹ Hankivsky and Jordan-Zachery, "Introduction: Bringing Intersectionality to Public Policy," 7.

our lives and the choices we make in response to those policies but also, our ability to envision the possibilities for living the good life? ”²²

Manuel argues that public policy, generally, operates around the idea that all people should have the right to live the “good life”, meaning the experience of democracy, freedom, autonomy, and social wellbeing.²³ This idea of the good life is directly connected to the idea of social equity, in that the good life can be achieved by advancing social justice and equity for all groups.²⁴ Social equity is rooted in the belief that all people are equal and share the same inalienable rights.²⁵ However, it recognizes that certain groups experience disadvantages more than others in the pursuit of these rights. Unlike the similar idea of equality, equity does not profess the sameness for all, but rather works to create fairness by decreasing barriers for the disadvantaged so that they can exist at the same level as the advantaged.²⁶

Non-discrimination is a fundamental statute of the Act creating parole authority, the INA. Therefore, this thesis explores more subtle requirements and qualifications that make the policies less accessible and equitable to people of certain identities. For example, while the policy may not outwardly discriminate against women, it may have staunch requirements on citizenship documentation. Using an intersectional lens to understand the connection between citizenship and gender in a country where women have far less access to citizenship documentation may illuminate how in reality many women do not have access to the policy and unveil potential social inequities. Therefore, using the framework of intersectionality to analyze

²² Manuel, 34.

²³ Manuel, 33.

²⁴ Hankivsky and Jordan-Zachery, 11.

²⁵ Mary E. Guy and Sean A. McCandless, “Social Equity: Its Legacy, Its Promise,” *Public Administration Review* 72 (2012): S5, <https://www.jstor.org/stable/41688032>.

²⁶ Guy and McCandless, “Social Equity: Its Legacy, Its Promise,” S5.

HP policies, I will be able to investigate its (in)equities and answer my research question. For the first part of my question, I use an intersectional lens to examine how identity is discussed through the language in HP policies. For the second part of my question, I explore the role of social equity and how the language used to discuss identity creates disadvantages for some and advantages for others in their pursuit of humanitarian protection and the good life.

Significance

Though not explicitly mentioned, the idea of social equity is ingrained in numerous human rights instruments. In the preamble of the 1951 Refugee Convention, contracting parties affirm that all humans shall enjoy their fundamental rights and freedoms without discrimination and that it is a primary concern of the UN to ensure that refugees have the widest possible exercise of these freedoms.²⁷ The preamble of the Universal Declaration of Human Rights (UDHR) also states a “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.”²⁸ Article 2 of the declaration also introduces the concept of non-discrimination, stating that everyone is entitled to the rights of the Declaration, with no distinctions being made based on identifying characteristics such as race, religion, political opinion, or birth country.²⁹

The INA has a similar clause related to non-discrimination as well.³⁰ However, looking through history we can see that US immigration policies are often discriminatory and

²⁷ UN General Assembly, Convention Relating to the Status of Refugees, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137, available at: <https://www.refworld.org/docid/3be01b964.html>.

²⁸ UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III), Preamble, available at: <https://www.refworld.org/docid/3ae6b3712c.html>.

²⁹ UN General Assembly, Article 2.

³⁰ INA, 202 (a)(1)(A).

inequitable.³¹ Most recently in 2017, Executive Order 13769, better known as Trump's "Muslim Travel Ban" exemplified how a discriminatory immigration policy can still be legal in the United States and work in pursuit of social *injustice*. Despite receiving immediate public backlash for its overt discrimination and ban of certain religions and nationalities, the order was eventually upheld by the Supreme Court as legal.³²

I was working as a refugee resettlement intern at the International Rescue Committee's (IRC) Silver Spring, Maryland, office in the summer of 2017 when the ban was first announced. There was a Somali family that had been granted refugee status and who were due to arrive the next week. Our team had to call them to tell them that they no longer were allowed to enter the United States because of the executive order. This family had been waiting for years in a refugee camp in Kenya for the opportunity at resettlement and protection. Because of their nationality and religion, they were suddenly excluded from this protection.

Non-discriminatory and equitable policies not only matter on a global level for the advancement of human rights norms, but on a very intimate individual level for people in need of protections who are excluded from assistance based on part of their identity. This thesis will explore the true nature of equity in HP policy, to better understand if the policies for Afghans and Ukrainians actually uphold both international and national tenants of non-discrimination. While this thesis does not find overt discrimination, such as in the case of the travel ban, it does show inequity, in that certain identities are more disadvantaged than others in accessing protection through humanitarian parole. In the

³¹ See examples throughout history such as: Chinese Exclusion Act of 1882, National Origins Act of 1924, Mexican Repatriation during the 1930s, Immigration Ban on HIV-positive individuals from 1987-2010.

³² Adam Liptak and Michael D. Shear, "Trump's Travel Ban Is Upheld by Supreme Court," *The New York Times*, (June 26, 2018), available at: <https://www.nytimes.com/2018/06/26/us/politics/supreme-court-trump-travel-ban.html>.

following section, I will explain my methodology for uncovering the similarities and differences of (in)equities within Afghan and Ukrainian HP policy.

Methodology

Methodological Approach: Document Analysis

This thesis uses the document analysis method to analyze intersectionality in HP policy. Document analysis is the systematic procedure of evaluating and interpreting documents to elicit meaning and gain understanding.³³ This method can yield data in the form of quotations, passages, and excerpts that are then organized into themes and categories through content analysis.³⁴ Content analysis is the act of taking a verbal, non-qualitative document and transforming it into qualitative data.³⁵ This often involves a coding scheme to organize the qualitative data.³⁶

Documents sampled are the core and most up to date (as of January 2023) regarding Humanitarian parole in general, and for Afghans and Ukrainians, specifically. While the INA and its amendments establish the legal basis for immigration parole in 212 (D)(5)(A) and (B), implementation and discretion are overseen by the US Department of Homeland Security (DHS). Within DHS, humanitarian parole authority is primarily delegated to the US Customs and Immigration Service (USCIS). Therefore, documents analyzed include legal code such as the INA, and policy documents from DHS and USCIS. Appendix A expands on which exact documents were selected and used for methodological analysis.

³³ Glenn Bowen, "Document Analysis as a Qualitative Research Method," *Qualitative Research Journal*, vol. 9, no. 2 (2009): 27, <https://doi.org/10.3316/QRJ0902027>.

³⁴ Bowen, "Document Analysis as a Qualitative Research Method," 28.

³⁵ Kenneth Bailey, *Methods of Social Research*, 4th ed. (New York, New York: The Free Press, 1994): 304.

³⁶ Bailey, *Methods of Social Research*, 306.

The document analysis method will provide context on how language discusses identity and intersectionality in HP policy for Afghans versus Ukrainians. Differences in how identity is situated in relation to policy may reveal potential differences in the policies themselves and inequities between certain identities. This will be further explored in the discussion of my findings.

Coding System

As mentioned previously, this thesis uses the framework of intersectional policy analysis. Intersectional policy analysis is used to explore the ways in which identity is described in the policy documents and the implications that language has for the equity of the policies. Coding will use a broad understanding of intersectionality. Increasingly, scholars have examined intersectionality through broader distinguishing categories, such as age, immigrant status, region of residence, religion, and occupation.³⁷ For my methodology, I will use this broader interpretation of intersectional theory, coding for all identity distinctions. The purpose of intersectionality is to move towards social justice by expanding knowledge on the way humans experience (dis)advantage based on their identity. Therefore, I believe coding for only the most noticeable markers of identity, such as gender and race, has the potential to exclude less visible forms of identity, such as political opinion, that may fundamentally impact how and if HP applicants can access protection.

To analyze the language used to describe identity in the policy documents, coding involved both an inductive and deductive approach. NVivo software was utilized to record the codes. Beginning with the inductive approach, I analyzed my documents for references to

³⁷ Manuel, 41.

identity distinctions, taking notes of common categories and intersections. Inductive analysis was used to avoid any preconceived notions for the identity distinctions I might find in the policy documents. The content analysis method recommends that categorizations should not be derived from theory, but rather, are best constructed by studying the documents and ascertaining their common elements.³⁸ The intersectional framework also stipulates that when analyzing social problems, categories and their importance must be discovered through the investigatory process of the policy.³⁹

Next, I did a deductive review of the documents to code data for my findings. While coding, I paid special attention to Bowen's two tenants of objectivity and sensitivity when conducting document analysis. Objectivity meaning to seek to represent the material fairly and sensitivity meaning to respond to subtle cues for meaning in the documents.⁴⁰ Through my deductive review I reduced the chances of my own preconceived notions from working in this field biasing the study. However, intersectional research also recognizes the identity and positionality of the researcher. It is important to acknowledge that my own identity may subjectively shape my understanding of identity and intersectionality.

This study seeks to understand how intersectionality is employed to discuss identity within the policy documents. Therefore, codes were separated into two overarching categories: singular identity and intersectional identity. Within each of these categories, codes were organized into subcategories based on the group that they applied to all humanitarian parolees, AHPs, or UHPs. Within the intersectional identity category, codes in each subcategory were further separated into the number of identities distinctions referenced - two, three, or four or

³⁸ Bailey, 307.

³⁹ Hankivsky and Jordan-Zachary, 7.

⁴⁰ Bowen, 32.

more identity distinctions. All codes in both overarching categories were also marked as either direct or indirect. Appendix B provides detailed notes on how deductive categories were sorted, what units of reference were used, and which references were excluded from the data. Findings will be presented and discussed in the section following the literature review, which provides scholarly background for the discussion.

Literature Review

The following literature review will address the topics of this thesis in two main sections. One focusing on the theme of the thesis and the other on the subject. The first section is on the politics of identity within refugee selection and humanitarian protection policy. While humanitarian parolees are a separate legal category from refugees, HP falls under the greater umbrella of refugee and humanitarian protection programs. The second section will examine current literature on humanitarian protection responses to the recent crises in Afghanistan and Ukraine. Given that the Afghan crisis began in 2021 and the Ukrainian crisis began in 2022, relatively little research has been conducted thus far. This section will address findings from some of the preliminary research conducted prior to the time of writing, early 2023.

Identity, Equity, and Exclusion in Refugee and Humanitarian Protection Policy

Some scholars have studied how identity places a role in refugee and humanitarian protection policy globally and in the United States. Through statistical analysis of refugee sending and receiving countries between 1960 and 2006, Jackson and Atkinson found that states are more likely to accept refugees from their ideological

rivals.⁴¹ For example, during the Cold War, the US admitted more refugees fleeing Communist regimes than refugees from countries with a similar political ideology to the United States.⁴² States are also more likely to accept refugees that share their ethnicity or are from a neighboring state.⁴³ Jackson and Atkinson argue that this is because these refugees are perceived to bring less demographic change to the receiving state.⁴⁴ The authors conclude that states not only decide if they will accept refugees, but that they decide if they will accept refugees from a particular sending state.⁴⁵ Jackson and Atkinson's study is illustrative of the ways in which identity of both the refugee and the state play a role to create inequities in admission and humanitarian protection.

Boyd and Pikkov also examine a particular identity category and its influence on admission through their analysis of the differences between male and female immigrant admissions to the US between 1990 and 2000. They found that women are more likely to enter as a spouse or dependent than as an economic or humanitarian migrant.⁴⁶ Women were also less likely to be the head of household, or primary applicant (PA), because of economic gender imbalances that inhibit women from having the financial ability to migrate.⁴⁷ For all ten years of their study, women were consistently less than half of all migrants, which the authors argue reflects a gender stratification hierarchy, as women are

⁴¹ Joshua L. Jackson and Douglas B. Atkinson, "The Refugee of My Enemy Is My Friend: Rivalry Type and Refugee Admission," *Political Research Quarterly* 72, no. 1 (March 1, 2019), 69, <https://doi.org/10.1177/1065912918776136>.

⁴² Jackson and Atkinson, "The Refugee of My Enemy Is My Friend: Rivalry Type and Refugee Admission," 72.

⁴³ Jackson and Atkinson, 69-70.

⁴⁴ Jackson and Atkinson, 69.

⁴⁵ Jackson and Atkinson, 71.

⁴⁶ Monica Boyd and Deanna Pikkov "Finding Place in Stratified Structures: Migrant Women in North America," in *New Perspectives on Gender and Migration: Livelihood, Rights, and Entitlements*, ed. Nicola Piper (New York: Routledge, 2008), 19.

⁴⁷ Boyd and Pikkov, "Finding Place in Stratified Structures: Migrant Women in North America," 26-27.

less able to meet criteria for admissions and self-sufficiency.⁴⁸ Boyd and Pikkov's study provides a strong example of the ways in which ascribed identity categories directly impact admission for protection. Their study also touches on the ways in which the multidimensionality of identity influences one's access to immigration.

Introducing the theory of intersectionality to identity, Hande Sozer analyzes humanitarian assistance to Syrian refugees in Turkey, critiquing the notion of vulnerability and how it is implemented in refugee contexts. Sozer finds that humanitarian actors in Turkey label Syrian women and children as the most "vulnerable," thereby excluding Syrian men from assistance without thought to the vulnerabilities they experience based on their identity.⁴⁹ Sozer further argues that humanitarian actors assess vulnerability based on their own preconceived understandings around citizenship, gender, ethnicity, and religion.⁵⁰

While the humanitarian actors that Sozer is studying are employing intersectionality in their vulnerability analysis, Sozer argues that the problem is that actors have diverse and different understandings on what those identities mean and how they impact vulnerability.⁵¹ Further, Sozer stresses that there are certain vulnerabilities that are invisible, such as in the case of Syrian refugee children born in Turkey who lack Syrian or Turkish citizenship documents.⁵² Sozer's final argument is for humanitarian actors to reassess the ways in which their views of identity and vulnerability may be self-

⁴⁸ Boyd and Pikkov, 28-29.

⁴⁹ Hande Sözer, "Categories That Blind Us, Categories That Bind Them: The Deployment of the Notion of Vulnerability for Syrian Refugees in Turkey," *Journal of Refugee Studies* 34, no. 3 (October 30, 2021), 2778, <https://doi.org/10.1093/jrs/fez020>.

⁵⁰ Sözer, "Categories That Blind Us, Categories That Bind Them: The Deployment of the Notion of Vulnerability for Syrian Refugees in Turkey," 2785.

⁵¹ Sözer, 2787.

⁵² Sözer, 2797.

blinding and to critique *why* some vulnerabilities are prioritized while others are invisible.⁵³ Sozer's study aptly illustrates the importance of *how* we employ intersectionality in humanitarian protection and admissions, cautioning on avoiding preconceived notions and using intersectionality as a tool for exclusion.

In their essay, Natalie Welfens and Saskia Bonjour explore how family structure interacts with other identity categories to influence refugee admission procedures. Welfens and Bonjour argue that while admission based on specific identity categories, such as religion, triggers contestation and debate, prioritizing families over single individuals seems like the "natural" thing to do.⁵⁴ They also argue that while single women are perceived as at risk and especially vulnerable, single men are perceived as *risky*.⁵⁵ They further argue that this implies that family membership reduces the danger of men and disciplines them, increasing the overall family's integration potential into the new society, and ignoring how sometimes family relationships can be a source of danger to certain family members.⁵⁶

Welfens and Bonjour also critique the definition of family, arguing that in refugee selection, family predominantly is defined as a nuclear family, consisting of a heterosexual adult couple and their minor children, which ignores the diverse understandings of family globally.⁵⁷ Welfens and Bonjour's final argument is that the understanding of the family structure in refugee resettlement reflects the politicized notion of resettling nations wanting to care and to control those they resettle, indicative of

⁵³ Sozer, 2798.

⁵⁴ Natalie Welfens and Saskia Bonjour, "Families First? The Mobilization of Family Norms in Refugee Resettlement," *International Political Sociology* 15, no. 2 (April 21, 2021), 214, <https://doi.org/10.1093/ips/olaa022>.

⁵⁵ Welfens and Bonjour, "Families First? The Mobilization of Family Norms in Refugee Resettlement," 221.

⁵⁶ Welfens and Bonjour, 222.

⁵⁷ Welfens and Bonjour, 223.

the fundamental power imbalance between refugee and resettler.⁵⁸ Their study exemplifies the issues around power and outdated understandings of identity that still strongly influence humanitarian protection. Intersectional theory would argue that although identities intersect to create vulnerability, we must use understandings of vulnerabilities to pursue social justice, and not as a method to further cement power relations and exclude certain individuals.

Finally, Randy Capps and colleagues investigate the role that identity places in refugee admissions to the US between the years 2002 and 2013. Using demographic information collected by the government, they explore the characteristics of the 644,500 refugees resettled during this time. They find that the majority of refugees were of working age at the time of arrival, although, Russian, Ukrainian, and Iranian refugees were more than twice as likely to be over 65 at the age of resettlement.⁵⁹ Additionally, they found connections between nationality and literacy, with the highest literacy rates being found among Cuban Spanish speakers, and the lowest rates (only 18%) being found among Laotian Hmong speakers.⁶⁰

A study like this is important because it gives us a critical lens to understand the patterns of identity that appear in immigration trends. This then gives us the ability to critique these patterns and better understand how they may be advantaging some and disadvantaging others. For example: why are Russians over the age of 65 more likely to be resettled than Somalis over the age of 65? Is there some issue of inequity behind this

⁵⁸ Welfens and Bonjour, 227-228.

⁵⁹ Randy Capps et al., "Integrating Refugees in the United States: The Successes and Challenges of Resettlement in a Global Context," *Statistical Journal of the IAOS* 31, no. 3 (August 27, 2015), 350, <https://doi.org/10.3233/SJI-150918>.

⁶⁰ Capps et al., "Integrating Refugees in the United States: The Successes and Challenges of Resettlement in a Global Context," 354.

finding? Unfortunately, access to this kind of demographic data for any immigrant group is not widely or publicly available. The data from this study was gathered through requests to multiple government agencies and was obtained by members of the Migration Policy Institute, an influential migration think tank.⁶¹ For more critical analysis of demographics in relation to migration, data must be public and accessible to researchers.

Humanitarian Protection following the Afghan and Ukrainian Crises

Beginning with analysis of humanitarian protection programs in response to the 2021 Taliban takeover of Afghanistan, in a recent article, Thassila Utatanabe compares US protection instruments for Afghans (HP and SIV) with instruments used by Latin American countries. She concludes that the US instruments are an insufficient response to the ongoing crisis in Afghanistan. Utatanabe argues that the fundamental issues with both HP and SIV is that they are not designed for urgent response and now that the US has left Afghanistan, access to both of these visas has become substantially more difficult for Afghans still in the country.⁶² Utatanabe compares this with Brazil's humanitarian visa, which has a quicker response time and is accessible to people affected by the Afghan crisis who are not Afghan nationals, such as stateless people residing in Afghanistan.⁶³ Utatanabe further argues that while the Brazilian policy aligns directly with regional and international human rights instruments, US policy does not and is

⁶¹ Capps et al, 343.

⁶² Thassila Utatanabe, "The Handling of the Humanitarian Crisis in Afghanistan by the U.S. Legal System in Comparison with the Central and Latin American Systems of Protection," *New York University Journal of International Law and Politics* 54, no. n (Winter 2022), 769.
<https://heinonline.org/HOL/P?h=hein.journals/nyuilp54&i=777>

⁶³ Utatanabe, "The Handling of the Humanitarian Crisis in Afghanistan by the U.S. Legal System in Comparison with the Central and Latin American Systems of Protection," 772.

instead strongly influenced by historical immigration policies in the US.⁶⁴ This creates a less stable protective situation for those affected by the Afghan crisis.⁶⁵ Utatanabe's study provides an important preliminary critique of AHP policy.

Alise Coen explores how international norms of protection and refugeehood are applied to and repurposed to create meaning at the domestic and local levels in the case of the Afghan crisis. Coen explains how at the international level, distinctions between “refugees” and other types of migrants are clearly defined and embedded in the normative architecture of the 1951 Convention and the refugee regime.⁶⁶ Coen argues that at the local level, the idea of the “refugee” has been entangled with other terminologies such as, “evacuee” and “parolee,” which leads to the international definition being contested and reimagined.⁶⁷ Coen elaborates that this intertwinement has had a long history in the US, with humanitarian parole and refugee definitions being blurred since the resettlement of Hungarians, Cubans, and Vietnamese during the Cold War.⁶⁸

This localization of the “refugee” meaning allows for states to support humanitarian parolees on a spectrum, wherein they are given more assistance than the average immigrant but are still excluded from some of the fundamental protections that come with being a legally designated refugee.⁶⁹ It also allows for the US to renegotiate some of the principles of refugeehood, such as the disallowance of selective admissions,

⁶⁴ Utatanabe, 775.

⁶⁵ Utatanabe, 775.

⁶⁶ Alise Coen, “Localizing Refugeehood: Norms and the US Resettlement of Afghan Allies,” *International Affairs* 98, no. 6 (November 2, 2022), 2027, <https://doi.org/10.1093/ia/iia219>.

⁶⁷ Coen, “Localizing Refugeehood: Norms and the US Resettlement of Afghan Allies,” 2029.

⁶⁸ Coen, 2030.

⁶⁹ Coen, 2030.

to prioritize a narrative of protection for our Afghan “allies” specifically, and reframe refugee protection as something owed or reciprocal.⁷⁰ Coen’s analysis speaks to an important theme throughout this thesis. Though they have separate legal definitions nationally and globally, Humanitarian parole and refugee status are often blended and intertwined both in lexicon and practice. While this thesis will analyze humanitarian parole policy, specifically, it will draw analysis and themes from refugee protection frameworks which are intertwined with humanitarian parole.

Due to the more recent nature of the Russian invasion of Ukraine and subsequent Ukrainian humanitarian protection programs, few studies have been conducted on this topic. In one relevant example, Marissa Jackson Sow does an analysis of the role in identity for the Ukrainians fleeing the 2022 Russian invasion on a global scale. Jackson Sow argues that while the 1951 Refugee Convention categorizes race as a factor for non-discrimination, the case of Ukrainian refugees illustrates how race is embedded in humanitarian protection. Jackson Sow cites examples of Afro- and Asian-descendant residents of Ukraine being denied opportunities for exit while white Ukrainians were prioritized.⁷¹ She also cites statements from receiving states, such as Austria, where the Chancellor explicitly said that Ukrainian refugees must be prioritized over Afghan refugees.⁷² Jackson Sow argues that this represents racial tiering, a type of deservingness hierarchy based on racial similarities that has a long history in refugee law.⁷³ Her position

⁷⁰ Coen, 2032.

⁷¹ Marissa Jackson Sow, “Ukrainian Refugees, Race, and International Law’s Choice Between Order and Justice,” *American Journal of International Law* 116, no. 4 (October 2022), 705, <https://doi.org/10.1017/ajil.2022.56>.

⁷² Jackson Sow, “Ukrainian Refugees, Race, and International Law’s Choice Between Order and Justice,” 706.

⁷³ Jackson Sow, 706.

is that the crisis in Ukraine has exposed the fundamental racism and white supremacy within humanitarian protection.

In a piece by David de Coninck for the *International Migration Review*, de Coninck attempts to explain the difference in public support for Ukrainian and Afghan refugees. De Coninck first cites the perceived symbolic threat theory, arguing that Europeans and Americans perceive Ukrainians as more culturally similar than Afghans and therefore less of a threat to the in-group's culture.⁷⁴ Second, de Coninck introduces the aggressor-based threat theory, which argues that Europeans and Americans can better identify with the threat and fear of Russia as an aggressor than the Taliban.⁷⁵ De Coninck finally cautions that these conflicts and subsequent refugee flows are indicative of the same hierarchy of deservingness cited by Jackson Sow and that further research is required to change this pattern in American and European immigration policy.⁷⁶ De Coninck's final message speaks to exactly what this thesis seeks to accomplish - better understanding the nuances of humanitarian protection policies as to understand where there are gaps and how policy can be improved in the pursuit of social justice.

Two studies have thus far been published that directly compare aspects of humanitarian parole for Afghans vs. Ukrainians. Similar to Jackson Sow's piece, Tazreena Sajjad investigates the ways in which race creates a compassion disparity between Ukrainians and other immigrants, specifically Afghans, seeking protection in the US. Sajjad argues that Ukrainians have an "elevated" position immigrating to the US

⁷⁴ David De Coninck, "The Refugee Paradox During Wartime in Europe: How Ukrainian and Afghan Refugees Are (Not) Alike," *International Migration Review*, (August 2, 2022), 3, <https://doi.org/10.1177/01979183221116874>.

⁷⁵ De Coninck, "The Refugee Paradox During Wartime in Europe: How Ukrainian and Afghan Refugees Are (Not) Alike," 5.

⁷⁶ De Coninck, 6.

compared to other immigrants from the Global South in their access to the US and compassion received by the public.⁷⁷ Sajjad then goes on to compare humanitarian parole for Ukrainians vs Afghans to illustrate this argument. Sajjad cites how within 6 months of the crisis, 68,000 Ukrainians had their humanitarian parole application approved, in contrast to only 123 Afghans since the evacuation in August 2021.⁷⁸ While Ukrainians have received a blanket fee waiver for parole applications, Afghans are still required to pay \$575 just for the application.⁷⁹ Sajjad contends that while UHPs still face challenges in the US, long established racialized immigration patterns do give them some special advantages.⁸⁰ Sajjad's study is central to the themes this thesis seeks to explore - whether or not advantages and disadvantages for certain identities are embroiled within our immigration framework. This thesis will expand on an analysis like Sajjad's by adding in the element of intersectionality to explore the effects of intersecting identity distinctions.

Finally, Seerat Bath critiques how successful the humanitarian component of humanitarian parole is through a comparison of the AHP and UHP policies. Bath critiques AHP policy for its requirement that applicants must access a US embassy as there is no longer a US embassy in Afghanistan.⁸¹ Bath also critiques the lengthy application process for Afghans and the extreme backlog of applications, arguing that only the most educated and wealthy Afghans would have the time and financial capital to complete them.⁸² Bath contends that Ukrainians have a better chance at accessing HP

⁷⁷ Tazreena Sajjad, "Hierarchies of Compassion: The Ukrainian Refugee Crisis and the United States' Response," *Georgetown Journal of International Affairs* 23, no. 2 (September 2022), 196-199, <https://doi.org/10.1353/gia.2022.0031>.

⁷⁸ Sajjad, "Hierarchies of Compassion: The Ukrainian Refugee Crisis and the United States' Response," 199.

⁷⁹ Sajjad, 199.

⁸⁰ Sajjad, 200.

⁸¹ Seerat Bath, "Is Humanitarian Parole Really Humanitarian?: Bias in U.S. Immigration Policy," *SSRN*, (July 24, 2022), 11, <https://dx.doi.org/10.2139/ssrn.4171032>.

⁸² Bath, "Is Humanitarian Parole Really Humanitarian?: Bias in U.S. Immigration Policy," 12.

than Afghans because of the expedited application process, embassy access, fee waivers, and greater likelihood of family in the United States who could provide an affidavit of support.⁸³ Bath finally critiques the entire notion of humanitarian parole, arguing that is not actually humanitarian in nature, but rather, is a foreign policy tool for the US to prioritize groups that it has a special interest in protecting.⁸⁴ Bath's piece speaks to themes introduced from the other literature in this review, including the ways in which policy expressly creates advantage for some and disadvantage for others.

My thesis aims to expand on the current scholarship on humanitarian parole and early comparisons of the Afghan and Ukrainian humanitarian crises. I will provide a new lens to explore these policies by applying the framework of intersectionality. Intersectionality will allow me to dig deep into the equitability of the policies and how they create (dis)advantage for particular groups within both of these national categories. Intersectional analysis allows me to go beyond a basic comparison of Afghans vs. Ukrainians and instead examine the nuances of applying for parole as elderly Afghan man or a young Ukrainian girl. The following section will present my findings and then engage them in discussion.

Findings and Discussion

My findings seek to answer one key question: how is identity discussed within policy documents for Afghan and Ukrainian parolees? Findings are separated into subsections, findings related to all humanitarian parolees, findings related to AHPs, and findings related to UHPs. In each of these subsections, the findings are expanded upon with the addition of secondary

⁸³ Bath, 14.

⁸⁴ Bath, 21.

literature. Finally, the policies for all HPs, AHPs, and UHPs are compared in the greater discussion section. In this section I synthesize my findings on how identity is discussed within each policy and connect that to how (in)equities can be found within each policy and between the different policies to answer the second part of my research question.

In my analysis, I find that identity throughout all policy documents was primarily discussed in the singular, and that intersectional understandings of identity are much less frequent. This one-dimensional understanding of identity hampers discussions of how the multidimensionality of identity may disadvantage certain individuals while advantaging others. My analysis further shows that in some ways humanitarian parole is equitable, for example, in the ways in which it forbids discrimination based on disability. However, through using an intersectional theoretical framework, I uncover that many identity-based inequities are also built into the policies. For example, Afghan citizens of specific occupations have more access to protection through HP than those without those occupations. For UHP policy, some of the most vulnerable, such as orphaned children from the Russian-controlled regions of Ukraine, have no access to protection through parole. Human rights instruments, both global and specific to the United States, encourage states to constantly be working towards equal rights for all and a world without discrimination. Therefore, in pursuit of these goals, we must always be scrutinizing the ways in which our public policies advance equity or exacerbate inequity. My findings, discussed at length in following sections, show that there are sizable inequities for specific identities within and between Afghan and Ukrainian Humanitarian Parole policy, leaving the humanitarian nature of the policies in question.

(In)Equities and Identity in Greater Humanitarian Parole Policy

In the documents for greater HP policy, I found that references to identity and intersectionality were most often used to exclude someone from accessing parole and entering the US. However, in some instances identity was also discussed in relation to providing an exception for inadmissibility or to protect against discrimination.

For references to singular identity categories, a total of 769 references were coded. 654 references were direct cues to an identity category, and 115 were indirect. Within the direct codes, I found that the identity marker most frequently coded was “noncitizen(s)”. 106 out of 107 of these references were from the USCIS Policy manual. This finding indicates an interesting contrast between the 3 policy documents analyzed for this section. The INA most often refers to the applicant for parole as “applicant” or “alien.” The USCIS web page usually uses the term “beneficiary.” Only in the USCIS policy manual is the identity of citizenship frequently connected to the applicant. This finding exemplifies the different orientations of the policy documents towards identity. The INA, representing the legally codified policy, uses the most legal terminology. The webpage, which is oriented towards explaining the policy to the public, positions the person utilizing this policy as receiving a benefit. Only in the policy manual, which is oriented to explain the policy to those implementing it, does the distinction of citizenship in reference to identity become important.

Other common singular identities coded included “age,” which appeared 35 times, and more specifically, “child,” which was referenced 22 times. I found that references to age usually were related to exceptions. This shows that more flexibility in the policy requirements is given to children, rather than adults. For example, a waiver on vaccine requirements for entry to the U.S. can be based on “vaccines may not be age appropriate for the applicant.”⁸⁵ Adults may also have

⁸⁵ U.S. Citizenship and Immigration Services, “Policy Manual,” (USCIS, Current as of January 25, 2023), 1443, accessible at: <https://www.uscis.gov/book/export/html/68600>.

some additional requirements that certain children do not. For example, “all beneficiaries 14 years and older must provide biometrics.”⁸⁶

Similarly, references to health of the parolee applicant were also frequently coded. “Condition” was coded 59 times, referring to a medical, mental, physical, or Class A or B condition. “Health” was also coded 41 times. This word was only coded when in relation to the applicant’s health and not in other variant uses of the word, such as in “healthcare.” Finally, “disorder” was coded 19 times.

Unlike references to age, I found that health references were frequently coded as a reason to exclude someone from accessing HP. Health-related grounds is a category for inadmissibility, and most codes related to health were found in this section. If a person has a class A condition, they are inadmissible to the US. Class A medical conditions include communicable diseases (such as tuberculosis), lack of vaccination for vaccine-preventable diseases, physical or mental disorders associated with harmful behavior, or drug abuse/addiction.⁸⁷ Until 2010, HIV status was also a reason to exclude an immigration applicant from the United States.⁸⁸ This shows a pattern of exclusion based on health status.

Access to disease prevention is strongly influenced by region of residence and economic status, exemplifying the intersectionality of those excluded based on health-related grounds. For example, according to the World Health Statistics 2022 report, published by the World Health Organization (WHO), there were 75.5 more TB cases per 100,000 people in the 20% of countries with the lowest income compared to the 20% of countries with the highest income in

⁸⁶ U.S. Citizenship and Immigration Services, “Humanitarian or Significant Public Benefit Parole for Individuals Outside the United States,” USCIS, September 9, 2022, accessible at: <https://www.uscis.gov/humanitarian/humanitarianpublicbenefitparoleindividualsoutsideUS>.

⁸⁷ U.S. Citizenship and Immigration Services, “Policy Manual,” 1406.

⁸⁸ U.S. Citizenship and Immigration Services, “Policy Manual,” 1427.

the Latin America & Caribbean (LAC) region.⁸⁹ They also found that as of April 2022, 74% of people in high-income countries had received the Covid-19 vaccination, in comparison to only 12% of the populations in low-income countries.⁹⁰ These examples illustrate the intersectional connection between health, region, and economic status and exemplify that a system that holds all people to the same standards lacks an understanding of global inequities.

The most common identity distinction amongst the indirect codes was also health status. 26 references related to long-term institutionalization for health reasons as a point of inadmissibility to the United States. There were also 7 codes linked to mental status and mental health evaluations. 6 codes related to health in terms of vaccination status and if it was medically appropriate for the individual. As with the direct codes, I found references to health were largely correlated with reasons to exclude someone from accessing HP.

Within this category references to political opinion were also frequent. These were exemplified through codes relating to membership and affiliation to Communist, Totalitarian, or Terrorist political parties and/or groups. Political affiliation also appeared in the direct codes, but not as frequently as citizenship, age, or health. I found that like health references, references to political opinion were almost exclusively linked to reasons to exclude the parole applicant.

The INA states that, “Any immigrant who is or has been a member of or affiliated with the Communist or any other totalitarian party (or subdivision or affiliate thereof), domestic or foreign, is inadmissible.”⁹¹ While there are some exceptions to this statute, related to age or involuntary membership, genuine political support for these types of political actors is a significant reason for exclusion.

⁸⁹ World Health Organization, “World Health Statistics 22” (Geneva: Switzerland, World Health Organization, 2022): 78, accessible at: <https://www.who.int/data/gho/publications/world-health-statistics>.

⁹⁰ World Health Organization, “World Health Statistics 22”, VII.

⁹¹ INA 212 (a)(3)(D)(i).

While membership to many totalitarian and terrorist parties does indicate a possible security threat, one could argue that members of some national subdivisions of the Communist party are not current threats to the safety of Americans. Today, one must wonder if this aspect of immigration policy is more so a leftover vestige of the Cold War and if it prioritizes past US foreign policy over humanitarian pursuits. As previously noted in the literature review, Jackson and Atkinson's study illustrated that during the Cold War, political ideology was a key factor in refugee admissions, with the US mostly admitting refugees fleeing Communist countries.⁹²

While political opinion is not included in the non-discrimination clause of the INA, the UDHR does entitle all enshrined rights to persons regardless of political opinion.⁹³ To move towards a more equitable and human rights-centered world, one could argue that political opinion should not be a basis for discrimination, unless that opinion is directly linked to dangerous activities and beliefs in opposition to human rights ideals.

For references to intersectional identity, a total of 144 references were coded. Of these references, 102 applied to two identities, 24 applied to 3 identities, and 18 applied to more than 3 identities. Within the two identities codes, 68 were direct and 34 were indirect. In this category, citizenship, again, played a significant role. In some cases, citizenship related to health, such as "USCIS must consider a noncitizen's health in a public charge."⁹⁴ Similar to the findings based on singular identity categories, here I find that the USCIS policy manual excludes the applicant based on their citizenship and health. In other cases, it was correlated with economic status, such as "examine the noncitizen's overall financial status."⁹⁵ Again, identity here was closely tied to reasons for exclusion. Poor financial status of the noncitizen is a potential factor in denial of

⁹² Jackson and Atkinson, 69.

⁹³ UN General Assembly, Article 2.

⁹⁴ U.S. Citizenship and Immigration Services, "Policy Manual," 1505.

⁹⁵ U.S. Citizenship and Immigration Services, "Policy Manual," 1507.

admission, whereas stable or high economic status is a positive factor in admissions. Clearly a system that prioritizes the wealthy over the poor lacks equity, creating more barriers for the most vulnerable rather than breaking down those barriers.

Age appeared often with numerous other identity distinctions, including gender, region of residence, criminal history, family structure, and political affiliation. In the context of criminal history and political affiliation, I found that age was often a factor for exception to inadmissibility. For example, someone cannot be inadmissible based on criminal grounds if “the crime was committed when the alien was under 18 years of age.”⁹⁶ In terms of family structure, gender, and region of residence, age was used more in a definitional context.

For references to three different identity categories, most items coded were direct (21) and only 3 were indirect. Again, age was a frequently referenced identity in this grouping. This code, “applicant’s age in relation to its possible impact on the other factors (for example, health or assets, resources, and financial status)”⁹⁷ clearly references age, health, and financial status (which includes assets and resources) as three pillars of the applicant’s identity. Such references clearly correlate multiple identity distinctions in relation to one’s immigration application, however, they are vague in the ways that these factors influence admissibility. This example does not specify how age interacts with health or financial status to influence the application. However, from the codes based on these singular identities, we can infer that poor financial status, poor health, and old age may combine to weaken someone’s parole application and increase their chances of exclusion. This exemplifies the way that policy documents avoid blatant discrimination but are still inequitable in that they give less favor to people seen as less desirable immigrants.

⁹⁶ INA 212(a) (2)(A)(ii)(I).

⁹⁷ U.S. Citizenship and Immigration Services, “Policy Manual,” 1504.

While for most of my findings, references to identity, both singular and intersectional, were used to exclude certain identities, I found some examples where intersectional language was employed to protect applicants from discrimination. One example is at the intersection of (dis)ability, citizenship, and health status. In the USCIS policy manual section discussing exclusion on health-related grounds, they specify that “USCIS does not presume that a noncitizen having a disability in and of itself means that the noncitizen is in poor health”⁹⁸ This reference serves to protect healthy noncitizens with disabilities from automatic exclusion based on assumptions about their health. In this case, USCIS policy extends protections to a disadvantaged group thereby leveling the playing field, showing one example of advancing equity in their policy.

Finally, 18 total references were coded for indicating 4 or more identities, with 16 of those references being direct and 2 indirect. These codes were frequently found in the context of factors about the applicant to consider for admissibility or factors that one could not discriminate on the basis of. For example, the USCIS policy manual states these factors for consideration if someone is inadmissible on grounds of being a potential public charge, “noncitizen’s age; health; family status; assets, resources, and financial status; and education and skills.”⁹⁹

As with previously mentioned codes, this reference is careful to avoid indicating the specific factors, such as low level of education, that could influence inadmissibility so as to avoid blatant discrimination. However, given the context of this reference being in relation to inadmissibility based on potential public charge, I find that we can assume factors that make one eligible for public benefits, such as being a single parent or low income, will be negative here. The more factors that could make one eligible for public benefits, the more compounded these

⁹⁸ U.S. Citizenship and Immigration Services, “Policy Manual,” 1506.

⁹⁹ U.S. Citizenship and Immigration Services, “Policy Manual,” 1525.

aspects become and make it more likely that the applicant will be inadmissible. In this case, the attention to intersectional aspects of identity has strong potential to weigh on someone's admissibility.

Intersectionality is contrastingly used to also protect against discrimination. For example, the INA also states that a person cannot be discriminated against for "the person's race, sex, nationality, place of birth, or place of residence."¹⁰⁰ Contrasting this code with the one above, it indicates that some aspects of identity are more protected than others. While adjudicators cannot discriminate based on race, they can take education and financial status into account. This ignores how intersectionality exemplifies that individual aspects of identity interact and overlap to create (dis)advantage in accessing social goods. It also ignores the ways in which gender or race may be in some cases strongly correlated with education level or financial status and uses the latter categories as a proxy to exclude based on the protected identity categories. For example, while the INA establishes that someone could not be excluded based on being an Afghan woman, she could be deemed as inadmissible because she is an impoverished mother of five children, and she has no formal education.

Throughout these 3 policy documents and 913 codes, some important other trends to note appear. For one, identity was referenced more frequently in the singular than in terms of intersectionality. I find that this exemplifies a lack of attention given to how applicants are multifaceted and cannot be understood based on a singular identity. Secondly, specific identity categories appeared frequently in both the singular and intersectional and direct and indirect categories. Citizenship, age, and health were the most frequently cited identities. Far less frequently referenced were what are considered to be the more core aspects of identity, such as

¹⁰⁰ INA, 202 (a)(1)(A).

gender, race, and religion. As discussed above, I find that this is a potential strategy to exclude certain groups while avoiding legally recognized discrimination. Finally, intersectionality was employed to both exclude and protect against discrimination, depending on the specific set of identity distinctions.

(In)Equalities and Identity in Afghan Humanitarian Parole Policy

Across the six documents discussing HP policy as applied to AHPs, identity distinctions were primarily employed to exclude certain groups while elevating others. Identity was also far more often referenced in the singular than through intersectionality, signifying an ignorance to identity's multidimensionality.

For the singular identity category, a total of 74 references were coded. Of these, the majority, 57, were direct references. I found that once again, citizenship/nationality was a common identity theme. 12 references included the words "Afghan nationals." Afghan nationality or citizenship marks an important distinction here. The AHP program is only accessible to those with proof of Afghan citizenship, meaning that persons who permanently reside in Afghanistan, but lack Afghan citizenship documentation, are excluded.

Further, outside sources show that access to proof of citizenship is a continuous problem in Afghanistan. A study by the Norwegian Refugee Council (NRC) and Samuel Hall finds that civil documentation procedures in Afghanistan are discriminatory towards internally displaced people (IDPs) and women. Due to of discriminatory and ineffective administrative procedures, only 38% of women in Afghanistan are estimated to have a tazkera, the Afghan citizenship

document, compared to 90% of men.¹⁰¹ For IDP women, only 21% have this document, which is also required for obtaining a passport.¹⁰² Therefore, using the lens of intersectionality we can understand that specifications around citizenship may be exclusionary to specific identities.

Family structure also appeared multiple times within this data set, with 6 references to being a “family member.” In the context of AHPs, family structure is key in understanding who is eligible for the policy and who is a more preferential candidate. USCIS states that “being an immediate family member (parent, spouse, or unmarried child under 21) of a U.S. citizen or an immediate family member (spouse or unmarried child under 21) of a lawful permanent resident is a strong positive factor” when considering a parole application.¹⁰³ This definition of a family member both disadvantages some and advantages others. Those with familial connections to the US are prioritized over those without. Further, those who do not fit within this profile of an immediate family member, such as a grandparent or cousin, are excluded without regard to the actual relationship bond. Those from polygamist families, are at risk for complete exclusion as well, with one reference noting that “If you continue a polygamous marriage you were in before you came to the United States or begin a new polygamous marriage in the United States, we may deny your immigration application or petition.”¹⁰⁴ A truly equitable policy would account for the variance in understandings of family by individuals, groups, and cultures worldwide.

¹⁰¹ Norwegian Refugee Council and Samuel Hall, “Access to Tazkera and Other Civil Documentation in Afghanistan” (Oslo, Norway: Norwegian Refugee Council and Samuel Hall, 2016), 23. https://www.nrc.no/globalassets/pdf/reports/af_civil-documentation-study_081116.pdf.

¹⁰² Norwegian Refugee Council and Samuel Hall, “Access to Tazkera and Other Civil Documentation in Afghanistan”, 25.

¹⁰³ U.S. Citizenship and Immigration Services, “Frequently Asked Questions About Urgent Humanitarian and Significant Public Benefit Parole for Afghans,” USCIS, September 1, 2022, accessible at: <https://www.uscis.gov/humanitarian/humanitarian-parole/information-for-afghan-nationals-on-requests-to-uscis-for-humanitarian-parole/frequently-asked-questions-about-urgent-humanitarian-and-significant-public-benefit-parole-for>.

¹⁰⁴ U.S. Citizenship and Immigration Services, “Information for Afghan Nationals,” USCIS, January 17, 2023, accessible at: <https://www.uscis.gov/humanitarian/information-for-afghan-nationals>.

Currently, the US has no operating embassy in Afghanistan, suspending operations on August 31st of 2021. A visit to a US embassy is required for approval of parole, therefore, parole requests for those still in Afghanistan have been unable to be processed since August of 2021. To access humanitarian parole, Afghans must travel to another country where there is a US embassy or consulate. Therefore, current region or residence appeared many times, with codes such as “individual in Afghanistan”¹⁰⁵ or “relocated outside of Afghanistan.”¹⁰⁶

While not acknowledged in the policy documents, arguably economic status, gender, and family structure have significant impacts on one’s ability to exit Afghanistan and travel to another country to apply for parole. For example, the Taliban has instituted rules that exclude most women from working, meaning they cannot earn their own income.¹⁰⁷ Further, women are now also barred from traveling farther than 72 miles without the accompaniment of a male relative.¹⁰⁸ Therefore women, especially those without a male relative, are far less likely to make it to an embassy outside of Afghanistan. This exemplifies the ways in which ignorance of intersectionality obscures understanding of equity and the opportunity to access parole.

Finally, one other identity distinction I found appearing regularly throughout the AHP singular identity codes was occupation/employment. This was especially prevalent in the Operation Allies Welcome webpage by the DHS, which included codes such as “employed by or on behalf of the U.S. government in Afghanistan” or “journalists, human rights activists, or

¹⁰⁵ U.S. Citizenship and Immigration Services, “Information for Afghan Nationals on Requests to USCIS for Parole,” USCIS, February 9, 2023, available at: <https://www.uscis.gov/humanitarian/humanitarian-parole/information-for-afghan-nationals-on-requests-to-uscis-for-parole>.

¹⁰⁶ U.S. Citizenship and Immigration Services, “Frequently Asked Questions About Urgent Humanitarian and Significant Public Benefit Parole for Afghans.”

¹⁰⁷ Human Rights Watch, “Afghanistan: Taliban Deprive Women of Livelihoods, Identity,” Human Rights Watch, January 18 2022, accessible at: <https://www.hrw.org/news/2022/01/18/afghanistan-taliban-deprive-women-livelihoods-identity>.

¹⁰⁸ Al-Jazeera, “No long-distance travel for women without male relative: Taliban,” Al Jazeera, December 26 2021, accessible at: <https://www.aljazeera.com/news/2021/12/26/afghanistan-long-distance-travel-women-without-male-escort-taliban>.

humanitarian workers.”¹⁰⁹ Occupation was especially significant in AHP policy because the mission that airlifted Afghans to US military bases for parole processing in late August of 2021 was expressly committed to assisting those who worked for the US government or military in Afghanistan.¹¹⁰ A report by DHS found that of the 82, 015 Afghans that the US government facilitated the evacuation of, 36,821 were previously employed by a US entity and had already applied for SIV status.¹¹¹ Further, 703 more Afghan evacuees worked for the US government (but had not applied for the SIV) and 2,109 had worked for an organization, such as an NGO or media outlet, affiliated with the US government.¹¹² Therefore, both the policy and secondary evidence illustrate that this policy openly favors those with specific occupations.

Once again, a lack of attention towards intersectionality here obscures how occupation in Afghanistan is closely tied to other identity distinctions, specifically gender. Even prior to the Taliban takeover in August 2021, employment opportunities for women with the US government or affiliates were significantly lesser than for men. According to the Global Gender Gap Index of 2021, Afghanistan ranked in last place out of 156 countries in terms of gender equality, and this data was collected prior to further restrictions enacted following the Taliban takeover. Therefore, women are much more likely to rely on family status, being an immediate family member of someone employed by the US government, rather than relying on their own occupation in the parole procedure.

Far less items were coded for reference to intersectional identities. Only 15 references were coded, and the majority, 12, were for two identities. 4 of these codes were direct, and 3 of

¹⁰⁹ U.S. Department of Homeland Security, “Operation Allies Welcome,” DHS, September 29, 2022, <https://www.dhs.gov/allieswelcome>.

¹¹⁰ U.S. Department of Homeland Security, “DHS Operation Allies Welcome Afghan Evacuee Report,” 2.

¹¹¹ U.S. Department of Homeland Security, “DHS Operation Allies Welcome Afghan Evacuee Report,” 4.

¹¹² U.S. Department of Homeland Security, “DHS Operation Allies Welcome Afghan Evacuee Report,” 5-6.

them were a connection between occupation and citizenship, such as “Afghan nationals who worked for the United States.”¹¹³ Once again, I find that this specifically prioritizes those who have the social capital and access to attain citizenship documents and employment by the US government. As both citizenship documentation and employment are more accessible to men, I find that while not explicitly discussed in the policy, these qualifications can be argued to inadvertently discriminate against women. The 8 other codes were all indirect. Again, most of these references included identity distinctions that would be more accessible to men and those with social and financial capital: citizenship, occupation, and region of residence. While inequity is not overt in the policy, intersectional analysis reveals its presence.

I found only one reference that mentioned 3 identities. This code pertained to unaccompanied minors and included age, region of residence, and family structure as identity distinctions. Unlike some other immigration policies, AHP policy does not exclude unaccompanied minors, meaning that a parent or legal guardian is not required for a child to access humanitarian parole. This example illustrates a way in which equity can be found in this policy, with age and family status not being discriminating factors in this regard.

Only two additional references were coded for mentioning 4+ identities. Both codes were direct and focused on the factors of consideration for admission. One code mentions positive factors in a parole decision, including: family status, employment, age, and region of residence. This code again specifies that current SIV applicants and their family members are given more positive favor in the application process. Also prioritized are those who have a family member who is a citizen or legal permanent resident of the US. The more positive characteristics that an applicant has, the more likely that their parole application will be approved. Therefore, identities

¹¹³ U.S. Department of Homeland Security, “Operation Allies Welcome.”

are compounded to create (dis)advantage. By acknowledging the intersectionality of identities very minimally, these policy documents ignore the ways that some have greater opportunity to access policies that are purportedly humanitarian in nature and nondiscriminatory.

(In)equities and Identity in Ukrainian Humanitarian Parole Policy

Similar to AHP policy, I find that humanitarian parole policy for UHPs often employs identity indirectly to exclude certain groups, such as children and people from specific regions. UHP policy also includes many more references to singular identity categories than intersectional identities.

Across the 4 documents analyzed for this section, 115 references were coded as markers of a singular identity distinction, with 88 being direct and 27 being indirect. Of the direct codes, many were in reference to age and family structure. For example, 26 of these 88 codes were variations of “child.” Additionally, there were many codes for “parent” and “legal guardian.” This is because, unlike AHP policy, unaccompanied minors are excluded from accessing the UHP program.¹¹⁴ Children under the age of 18 must be traveling with a parent or legal guardian to have parole approved and to be granted entry into the US. In this case, I find that age does not provide for exceptions, but rather for exclusion. One group this excludes is Ukrainian children who may have immediate relatives they wish to reunite with in the US. It also excludes children who lack a parent or legal guardian (that is not the government).

In Ukraine, residential facilities remain common as locations for the government to raise children who are orphans or have been removed from their families. Ukraine has the highest

¹¹⁴ U.S. Citizenship and Immigration Services, “Uniting for Ukraine,” USCIS, January 25, 2023, <https://www.uscis.gov/ukraine>.

level of children in facilities like this in Europe, at 90,000.¹¹⁵ Migrating or accessing parole as an unaccompanied minor presents many dangers, such as serious potential for trafficking and exploitation.¹¹⁶ However, in the case of Ukraine, staying in Russian-occupied regions is also potentially dangerous for these children. A report by the Humanitarian Research Lab at Yale University found 6,000 confirmed cases of children forcibly taken from Ukraine and sent to Russia for adoption or reeducation.¹¹⁷ The Ukrainian government finds that the number of children is closer to 15,000, if not hundreds of thousands.¹¹⁸ Therefore, lack of access to the option of parole leaves these children in a very vulnerable position.

In other cases, US refugee and immigration policy has created parallel programs for unaccompanied minors that provide increased protections against trafficking. For example, the CAM program allows for minor children from Central America to come to the US as parolees or refugees to reunite with family members.¹¹⁹ The Unaccompanied Refugee Minors (URM) program offered through ORR currently provides intensive case management and foster care to unaccompanied refugee minors who lack a family member to be their caregiver in the US.¹²⁰ While Ukrainian unaccompanied minors are technically eligible for this program, UHP policy ensures that Ukrainian unaccompanied minors would never be approved for parole. Therefore, removing policy restrictions around guardianship and channeling unaccompanied minors through

¹¹⁵ World Vision, “Impact of War on Ukraine’s Children: A Child Protection Report” (World Vision, January 31, 2023), 4, <https://www.wvi.org/publications/report/ukraine/impact-war-ukraines-children-child-protection-report>.

¹¹⁶ World Vision, “Impact of War on Ukraine’s Children: A Child Protection Report,” 4.

¹¹⁷ Kaveh Khoshnood, Nathaniel Raymond, and Caitlin Howarth, “Russia’s Systematic Program for the Re-Education and Adoption of Ukraine’s Children” (New Haven, Connecticut: Humanitarian Research Lab at Yale School of Public Health, February 14, 2023), 5, <https://hub.conflictobservatory.org/portal/sharing/rest/content/items/97f919ccfe524d31a241b53ca44076b8/data>.

¹¹⁸ Khoshnood, Raymond, and Howarth, “Russia’s Systematic Program for the Re-Education and Adoption of Ukraine’s Children,” 10.

¹¹⁹ See more about the CAM program here: <https://www.uscis.gov/CAM>.

¹²⁰ See more about the URM program here: <https://www.acf.hhs.gov/orr/programs/refugees/urm>.

the URM program would prevent exclusions based on age and simultaneously provide protection to one of Ukraine's most vulnerable populations.

Citizenship was another identity distinction I coded frequently in the data. It was discussed through 13 different codes. 8 of these codes included the word "citizen(s)," one included "citizenship," and 2 included "national(ity)". Also referenced was the applicant's lack of Ukrainian citizenship, with one code for "noncitizen" and one for "stateless." Like with AHP policy, I find this language to be exclusionary to those who reside in Ukraine but lack citizenship. While the UHP program does allow for noncitizen immediate family members of a Ukrainian citizen to apply for parole, those lacking any familial connections to a Ukrainian citizen are excluded. One significant group this affects is Roma. While many Roma in Ukraine have lived their lives there, due to longstanding discrimination in Ukraine and throughout Europe, many Roma lack formal citizenship documents to submit with a parole application.¹²¹

Another group that this excludes is stateless people. The UN defines a "stateless person" as someone who is not considered a national by any state under their laws."¹²² This group includes former citizens of the USSR who live in Ukraine but did not go through legal procedures to obtain Ukrainian nationality, asylum seekers and refugees passing through Ukraine, and people living in the non-government controlled areas of Crimea.¹²³ It is estimated that 88% of children born in Crimea do not have birth certificates, therefore lacking needed

¹²¹ Bernard Rorke and Anastasiia Zhuravel, "Roma Rights Under Siege: Monitoring Reports from One Year of War in Ukraine" (Brussels, Belgium: European Roma Rights Centre, February 2023), 22, http://www.errc.org/uploads/upload_en/file/5475_file1_roma-rights-under-siege-monitoring-report-of-war-in-ukraine.pdf.

¹²² United Nations Refugee Agency, "Stateless Person Definition," United Nations Refugee Agency (May 18 2020), <https://emergency.unhcr.org/protection/legal-framework/stateless-person-definition>.

¹²³ European Network on Statelessness, "BRIEFING: Stateless People and People at Risk of Statelessness Forcibly Displaced from Ukraine" (London, United Kingdom: European Network on Statelessness, March 10, 2022), https://www.statelessness.eu/sites/default/files/2022-03/ENS%20Briefing%20-%20Stateless%20people%20displaced%20from%20Ukraine%20-%20March%202022_1.pdf.

citizenship documentation to access HP.¹²⁴ I find that this exclusion seriously disadvantages some of the most vulnerable populations within Ukraine. It creates a huge inequity between certain nationality groups and people living in different regions of the country. Had the parole program been based on proof of *residency* in Ukraine at the time of invasion, rather than *citizenship* to Ukraine, the parole program would be more expansive and equitable to all those affected by the war.

The 27 indirect codes found for the singular identity category were more diverse in the identity distinctions that they referenced. Some identity categories referenced were family structure, criminal history, language, age, region of residence, and health. Also indirectly discussed was economic status. For example, “Failure to provide evidence of sufficient income or financial resources may result in the denial of the foreign national's application for a visa”¹²⁵ cues one’s economic standing and access to financial capital. In the case of UHP policy, economic status is more important than with AHP policy. UHPs are not only required to have a sponsor in the US who can financially support them, but their own income is also weighed as a positive factor in parole determinations. Further, UHPs are required to organize and finance their own travel to the US.¹²⁶ I find that this policy indirectly discriminates against those with low economic standing and those who lack a supporter in the US to assist them. A truly equitable policy would not consider financial status or would provide increased assistance for those in the most vulnerable economic positions, rather than excluding them.

¹²⁴ European Network on Statelessness, “BRIEFING: Stateless People and People at Risk of Statelessness Forcibly Displaced from Ukraine.”

¹²⁵ U.S. Department of Homeland Security, “Declaration of Financial Support,” DHS, January 4, 2023, <https://www.uscis.gov/sites/default/files/document/forms/i-134instr.pdf>.

¹²⁶ U.S. Department of Homeland Security, “Uniting for Ukraine,” DHS, September 16, 2022, <https://www.dhs.gov/ukraine>.

For intersectional identities, I coded a total of 30 references. Of these references, 25 were coded at 2 identity categories, with 15 references being direct and 10 being indirect. Within these 25 codes, identity distinctions mentioned were almost all in reference to age, citizenship, region of residence, or family structure. For example, “Ukrainian citizens who are currently in the United States,”¹²⁷ directly indicates both citizenship and region of residence. Critically, I find this is another group largely excluded from the UHP program. Ukrainian citizens present in the United States without being admitted through the parole program are excluded from applying for parole while already residing in the US.¹²⁸ While some of these people may be eligible for another form of humanitarian protection, temporary protected status (TPS), this is time-bound and limited to only those who have continuously resided in the US since April 11th, 2022 or physically present since April 19th, 2022.¹²⁹ Since the beginning of the UHP program in April of 2022, Ukrainians who arrive at ports of entry (most often the US-Mexico border) are turned away because they do not have the pre-authorization for parole.¹³⁰ As seen in the singular identity codes, citizenship is critical to eligibility, but an intersectional lens shows us that region of residence has an important impact as well.

Of the 4 references coded for 3 identity distinctions, all were also coded as indirect. All four referenced the same intersectional identity of a non-Ukrainian citizen related to a Ukrainian citizen, residing out of the United States. As discussed before, this is the one exception for noncitizens residing in Ukraine. While this is a beneficial exception for prioritizing family unity,

¹²⁷ U.S Citizenship and Immigration Services, “Frequently Asked Questions About Uniting for Ukraine,” USCIS, January 6, 2023, <https://www.uscis.gov/humanitarian/uniting-for-ukraine/frequently-asked-questions-about-uniting-for-ukraine>.

¹²⁸ U.S Citizenship and Immigration Services, “Frequently Asked Questions About Uniting for Ukraine.”

¹²⁹ U.S Citizenship and Immigration Services, “Frequently Asked Questions About Uniting for Ukraine.”

¹³⁰ U.S. Department of Homeland Security, “President Biden to Announce Uniting for Ukraine, a New Streamlined Process to Welcome Ukrainians Fleeing Russia's Invasion of Ukraine,” DHS, April 21 2022, <https://www.dhs.gov/news/2022/04/21/president-biden-announce-uniting-ukraine-new-streamlined-process-welcome-ukrainians>.

it is very limited in scope. It also has the potential to exclude stateless persons who are in long-term relationships with Ukrainian citizens, but who are not legally married. Marriage equality does not exist in Ukraine, meaning that for LGBTQ+ couples where one person is a noncitizen, that person is excluded from accessing parole alongside their partner. Again, I find that this signifies a lack of consciousness provided to intersectionality in the writing of the parole policy. Policy writers are not accounting for the nuances of identity.

Finally, for 4 or more identity distinctions, only one reference was coded. This reference was indirect and summarized eligibility for U4U: “resident in Ukraine as of February 11, 2022, have a supporter in the United States, complete vaccinations and other public health requirements, and pass biometric and biographic screening and vetting security checks.”¹³¹ This reference mentions identity categories of region of residence, family structure, health, and criminal history indirectly. Interestingly, this code implies that any “resident” of Ukraine prior to February 11th, 2022, would qualify for the program. However, from other codes in this document and others, we know that *citizenship* is the real determining factor. While this code mentions multiple aspects of identity it does not explore intersectionality in a critical or in-depth way. It ignores the ways in which statelessness may affect citizenship or how religious and moral convictions may apply to health and vaccination status.

Overall, the codes for UHPs were diverse in the identity categories both singular and intersectional referenced indirectly. However, when it came to the direct codes, only a few identity categories, specifically age and citizenship, appeared frequently throughout the singular and intersectional codes. Intersectional codes generally were lacking, especially those for more than two identities. Intersectional analysis also exposed the nuanced ways in which the policy is

¹³¹ U.S. Department of Homeland Security, “Uniting for Ukraine.”

inequitable to people of varying identities, specifically unaccompanied minors, those lacking Ukrainian citizenship, and those already living in the US or Russian-occupied regions. In the following discussion, I will compare these findings with the findings for overall HP and AHP policy. I will explore how all three discuss intersectionality and how the language of identity in the policies creates (dis)advantage differently and similarly.

Humanitarian Parole Policy Compared

Examining references to identity distinctions across the three policy groups, there are some points of comparison and contrast. Beginning with comparison, across all policy documents and parole policies for different groups, singular identity references were substantially more common than references to the intersectionality of identity. This signifies that when identity is discussed in humanitarian parole policy it is most often diluted into a singular category instead of explored with multidimensionality.

Of identity distinctions commonly appearing across all three policy categories, citizenship was the most prevalent and notable. Citizenship commonly appeared as a singular identity and as one identity distinction as part of intersectional identity. This is unsurprising given that all humanitarian parolees must not be US citizens and UHPs and AHPs must be Ukrainian and Afghan citizens, respectively. As mentioned previously, a division is drawn between citizenship and region of residence, which I find ignores the nuanced ways people build connections to home and to country. A proof of residency requirement, as opposed to a citizenship requirement, would create more equity for the diverse people directly impacted by these conflicts.

In contrast, largely uncoded and not referenced throughout all the policies were some of the core aspects of identity, including race and gender. Codes for these categories were mostly in reference to nondiscrimination based on these identifying characteristics. This points to an interesting conundrum. Arguably, race and gender are not specified in the policy to avoid discrimination. However, by ignoring these fundamental aspects of identity and how they interact and intersect with other identities, are we actually hindering the processes of equity and social justice? As seen in the example of UHP policy, one of the largest stateless groups excluded from the UHP program is the Roma, who constitute a long discriminated against ethnic group in Europe.¹³² This is indicative of the ways in which social policy that does not acknowledge intersectionality can discriminate against the most protected identity categories indirectly.

My findings also exemplify ways in which the three parole policies differ from one another. One key difference is in the theme of common identity distinctions referenced throughout the policy documents. While citizenship, age, and health were consistently referenced in all three categories, some other identity distinctions were much more prevalent in specific policies as opposed to others. Within AHP policy, occupation/employment history was a much more important singular and intersectional identifying characteristic than in greater HP policy or UHP policy. This is because the Operation Allies Welcome program, through which AHPs gained humanitarian parole status, was overt about prioritizing Afghans whose lives were endangered based on their or a family member's work for the US government or a humanitarian agency.¹³³ In contrast, occupation is a largely irrelevant identity marker for Ukrainians or humanitarian parolees overall. Therefore, a Ukrainian citizen would not have to worry about

¹³² Rorke and Zhuravel, 9.

¹³³ Department of Homeland Security, "Operation Allies Welcome."

being excluded from protection based on their identity, while for an Afghan citizen it could be a very real concern.

For UHP policy, age and family structure stood out as significant identity distinctions more so than in AHP and greater HP policy. This is likely because the UHP policy specifically restricts unaccompanied minors from coming to the US through the UHP program, while restrictions against unaccompanied minors do not exist within the greater HP and AHP policies. This leaves the question - why is age such an important restriction within UHP policy when it is not an excluding factor in the other policies? Here we see an inequity not within policies but between them. While a 17-year-old who lost his parents to the Taliban may be able to seek protection in the US, a 16-year-old who lost hers to the Russian invasion would not.

An important identity distinction that was prevalent in both the HP and AHP documents, but lacking in the UHP documents, was political opinion. Coded 36 times singularly and intersectionality in the greater HP policy documents, political opinion was specifically referencing membership or affiliation with a Communist, totalitarian, or terrorist party. Among AHP policy, the document “DHS and DOS Announce Exemptions Allowing Eligible Afghans to Qualify for Protection and Immigration Benefits” makes references to both those in political support of the Taliban and those in political support of the United States, with 9 singular identity codes. References to political opinion, however, are completely excluded from the UHP documents.

This does not mean that political identity is not relevant to UHPs, however. Greater HP policy references apply to both AHPs and UHPs as well, so political membership, especially to the Communist party, may still be a factor for some UHPs. Following the fall of the Soviet Union, the Communist party was banned in Ukraine in 1991. However, by 1992 a new

Communist party was formed and operated until being banned again in 2014, although the legality of this 2014 ban remains contested as part of ongoing “de-communicization”.¹³⁴ It warrants some consideration on if more scrutiny should be applied to individual political parties and if membership to that party truly signifies harmful and dangerous beliefs before someone is unilaterally excluded from humanitarian protection.

In another example, within greater HP policy, religion is referenced as both a singular and intersectional aspect of identity, often in respect to “religious beliefs and moral convictions” and how those intersect with health, specifically the acceptance of vaccines. Neither AHP or UHP policy individually explore the ways in which religion and moral beliefs prevalent in Afghanistan or Ukraine may impact health and vaccination requirements. This signifies a potentially relevant missing discussion around religion and health within the AHP and UHP policies.

Finally, when comparing the policy documents for all HPs, UHPs, and AHPs, one key factor stands out about the difference in the documents and coding material. Policy documents for all immigrants/all HPs, namely the INA and the USCIS policy manual, were substantially longer and went into far more depth than any of the webpages for AHPs and UHPs. Official policy documentation for AHP and UHP policy was shockingly sparse and as this thesis indicates, leaves much up to the interpretation of the reader.

For example, take the identity distinction of (dis)ability both in the singular and intersectional context. Ability is not mentioned once in any of the policy documents for UHPs or AHPs. However, in the USCIS policy manual, discussion of this identity is expansive. Language

¹³⁴ Mikhail Minakov and Matthew Rojansky, “Democracy in Ukraine: Are we There Yet?,” Wilson Center and the Kennan Institute, No. 30 (January 2018), 4, https://www.wilsoncenter.org/sites/default/files/media/documents/publication/kennan_cable_30_-_rojansky_minakov.pdf.

is not only specific and targeted, but numerous examples are used to explain policy guidance. In Volume 1, while describing reasonable accommodations for people with disabilities, the manual not only names people with disabilities as an identity category, but further specifies examples of identities within that category, such as “those unable to use their hands” or “those who are deaf.”¹³⁵ (Dis)ability also appears multiple times within the intersectional codes, including 4 times in the 16 direct codes for 4 or more identity distinctions.

This leaves the question of the quality of language and written documentation within the UHP and AHP policies. Why is there not a more robust written record of these policies that pays attention to the intersectionality of identity? Can this lack of codified policy advantage or, more likely, disadvantage certain identity groups in the humanitarian parole process? What dangers arise when discretion and interpretation is left up to different people? Does ignorance of identity differences in policy protect from discrimination or feed it? These questions are all areas for potential study to better understand the relationship between identity and HP policy.

To answer the second part of my research question, my findings show that policy for AHPs and UHPs does not explore the aspects of intersectional identity enough to be equitable. While general immigration and HP policy is more expansive, it too struggles with truly being equitable. As my findings show, in all humanitarian parole policies, identity distinctions are often used to exclude vulnerable populations, such as women, unaccompanied children, and stateless persons. This forms a barrier to true social justice and hampers the pursuit of social equity. Especially in the case of humanitarian parole and other humanitarian protection immigration programs, such as refugee status, ability to apply for protection may be the factor that saves someone from severe human rights abuses. Scrutinizing public policy for inequities is

¹³⁵ U.S. Citizenship and Immigration Services, “Policy Manual”, 120-121.

one of the ways in which we can push towards a more socially just world and one that has greater understanding of intersectional identities and respect for the human rights of all.

Conclusion

Following two major humanitarian crises in 2021 and 2022, the US government quickly organized a pathway to temporary humanitarian protection for impacted Afghans and Ukrainians. These policies combined have allowed for over 100,000 people to be resettled in the US faster than the regular asylum and refugee pathways would allow for. While humanitarian parole has been extremely beneficial to many people in need of quick protection, it has its flaws. Some groups experience more disadvantages and outright exclusion compared to others. Of the millions of forcibly displaced people around the world, less than 1% are resettled in a safe new country.¹³⁶ Therefore, I believe it is critical to analyze our refugee and humanitarian protection policies to better understand who has access to this vital protection and who is excluded from it.

This thesis serves as a critical analysis of the true equity of HP policy so as to inform how this policy can be improved for not only Afghans and Ukrainians, but also for future groups in need of humanitarian protection following a crisis. It aims to open the door for further study into HP policy and the aspect of identity in immigration policy overall. One particularly relevant area of further study may be analysis of the demographic information regarding Afghan and Ukrainian parolees. One limitation of this study was that no demographic data on these parolees has yet been published. If this data becomes available in the future, the themes of this thesis could be expanded upon by comparing identity in policy documents versus in practice. This

¹³⁶ Amnesty International, “The World’s Refugees in Numbers,” Amnesty International, <https://www.amnesty.org/en/what-we-do/refugees-asylum-seekers-and-migrants/global-refugee-crisis-statistics-and-facts/#:~:text=In%202019%2C%20only%20half%20a,who%20returned%20to%20their%20country.>

thesis adds to the building scholarship on the AHP and UHP programs and the growing discussion around intersectionality and identity in humanitarian protection. Through scholarship and better scrutiny of our policies we can move towards equity-based human rights ideals and a more equitable division of rights for all peoples.

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Appendix A: Documents Analyzed

For the overarching Humanitarian Parole policy, three documents were analyzed. The first document examined is the INA. As this document contains legal guidance for all immigration policies in the US, I only coded selected sections applicable to humanitarian

parolees. These sections include Title I: General and select relevant chapters from Title II: Immigration.

Also analyzed was the USCIS Policy Manual. This 2,110-page manual is not specific to only Humanitarian Parole, but all immigration policies administered by USCIS. Specific volumes applying to all immigrants were analyzed, including Volume 1: General Policies and Procedures, Volume 8: Admissibility, and Volume 9: Waivers and Other Forms of Relief. In Volume 3: Humanitarian Protection and Parole, the humanitarian parole section was coded.

Important to note, some chapters, including those specific to humanitarian parole procedure and inadmissibility on grounds of terror offenses are not available in the current manual, as these sections are still being updated from the previous USCIS adjudicator's field manual (AFM), which is no longer accessible online. Aside from the policy manual, available guidance on USCIS interpretation of humanitarian parole policies is most accessible via their website. The webpage for "Humanitarian or Significant Public Benefit Parole for Individuals Outside the United States" was also coded for analysis. This webpage and the INA fill the gap for possible policy information not currently available in the USCIS policy manual.

Humanitarian parole policy for Afghans and Ukrainians is currently only accessible via the official USCIS web pages detailing policy information. For Humanitarian parole policy specific to Afghans, the USCIS web pages coded were "Information for Afghan Nationals on Requests to USCIS for Parole," "Frequently Asked Questions About Urgent Humanitarian and Significant Public Benefit Parole for Afghans," and "Information for Afghan Nationals." The DHS webpages for "Operation Allies Welcome," and "DHS and DOS Announce Exemptions Allowing Eligible Afghans to Qualify for Protection and Immigration Benefits" were also coded.

For humanitarian parole policy specific to Ukrainians, the USCIS web pages coded were "Uniting for Ukraine" and "Frequently Asked Questions about Uniting for Ukraine." The DHS web page for "Uniting for Ukraine" was also coded. Also analyzed was the "Form I-34 Instructions," which provides instruction on the declaration of financial support required for Ukrainian humanitarian parolees.

Appendix B: Notes on the Coding System

Singular identity codes were separated into 3 sections: those applying to all humanitarian parolees, those applying to AHPs, and those applying to UHPs. Within these nationality

divisions, codes were then categorized as either a direct or indirect reference to identity. Direct, would be, for example, “minors”, clearly referencing identity in respect to age. Indirect would be a reference such as, “head covering,” which indirectly points to religious identity.

Within the intersectional identity category, codes were again divided into subcategories based on applicability to all humanitarian parolees, AHPs, or UHPs. Within each of these categories, codes were further separated into the number of identifying characteristics. For example, “Ukrainian women” would be coded as 2 identity distinctions, for nationality and gender. “Afghan children with disabilities” would be coded as three for nationality, age, and ability. All references to over 3 distinctions were coded in the group 4+ identities. Within each of these categories, references were also categorized as direct or indirect, using the same standards as within the singular identity category.

Units of reference varied from singular words to paragraphs. Singular words often included direct references to identity, such as, “age” or “gender.” Sentences and paragraphs were coded when a larger amount of content was connected to a singular idea or statement. For example, a code for multiple identities was a section discussing characteristics of a beneficiary (person applying for humanitarian parole) that would weigh positively in an application. While the characteristics were divided into singular identity categories, the overarching theme was that possessing multiple of these identity distinctions would be beneficial in the parole process.

References to the identities of petitioners were excluded from the data. Petitioner refers to the US citizen or legal resident who is sponsoring the person applying for humanitarian parole. This identity is excluded from the data because this thesis only seeks to understand intersectional identity for the parolee. Petitioner identity was used only when it related to the identity of the beneficiary parolee, such as with family structure. However, it was not used when discussing the citizenship or economic standing of the petitioner.

Sections that discussed requirements for parolees after arrival to the US were also excluded as this thesis only focuses on admission. Further, discussions of other visa statuses, such as asylum, were not coded, as this thesis only examines humanitarian parole. However, headings and questions for the FAQ documents were coded as these did indicate specific references to identity within the policy framework.