Article:

The Right to Rent: active resistance to evolving geographies of state regulation.

Abstract

Drawing on recent qualitative research on the UK's Immigration Act 2016, this paper sets out to explain the opposition of social housing professionals to the imposition of the Right to Rent. By locating this policy intervention within the evolving geographies of state regulation, it is possible to account for the mechanisms through which housing professionals can resist the extension of duties that had previously been the remit of border agents and immigration officials. Synthesising Bourdieu's critical sociology with Boltanski and Thevenot's sociology of critique helps explain not only the governmental underpinnings of contemporary immigration rhetoric, but also the forms of resistance for which housing professionals display a strong justification in exercising. The universal nature of 'classification struggles' within and beyond state institutions, extends the relevance of this research to encompass most, if not all welfarist regimes that operate within actually existing neoliberal orders.   The analysis of the findings of this research has wider implications that reach beyond housing and urban studies as the issue of immigration continues to dominate contemporary politics, almost without geographical exception, right across the globe.

Key words: Actually Existing Neoliberalism, Economies of worth, Sociology of critique, Geographies of State Regulation, Housing, Immigration

Introduction

By combining Bourdieu's critical sociology with Boltanski and Thevenot's sociology of critique, our research shows the extent to which welfare professionals (in this case those working in social housing and the voluntary sector) are able to resist the propensity towards creative destruction that arises from 'actually existing neoliberalism' (Wacquant 2012, 2014; Brenner and Theodore 2002 and 2005; Cahill 2010; Peck, Theodore and Brenner 2013). Combining critical sociology with the sociology of critique offers housing and, indeed, the wider field of urban studies, a framework that dissolves the division between structure and agency. This approach provides a properly dialectical method for understanding the relationship between the external world of political economy and the interiority of professional practice. By combining social physics with social phenomenology (Bourdieu and Wacquant 2992) this paper situates housing within the power / resistance nexus, advancing the 'governmentality' literature as well as contributing to the research on professional practice within housing and urban studies.

Specifically, our data shows that the social housing professionals and voluntary sector agencies interviewed, unanimously opposed attempts to replace a classificatory regime that had a strong 'civic' focus, with one that had all the individualising, hierarchising and disciplinary tropes of a 'domestic' polity. This approach not only provides a link into the wider debates around the propensity of neoliberalism towards creative destruction, it aids a more nuanced understanding of the extent to which these political programmes operate at various spatial scales by exposing the 'evolutionary ruptures within the institutional frameworks, policy environments, and geographies of capitalist regulation' (Brenner and Theodore 2002: 363). In this specific study, the destruction of 'traditional' social housing practices and their replacement with a new form of punitive authoritarianism (see Crawford, McKee and Leahy 2016, and Leahy, McKee and Crawford 2017) illuminates how regulatory landscapes are made and remade through the dialectical tensions between opposing perspectives on the role of housing professionals with regard to immigration control.

The Right to Rent Provisions of the Immigration Act 2016 make it a criminal offence for a residential landlord or letting agent to rent a property to a tenant who does not

have leave to remain within the UK. This Act is part of what Theresa May has deemed a requirement to make the UK a 'hostile environment' for illegal immigrants.

This approach to urban sociology through the lens of justificatory regimes employed by welfare professionals is, we argue, of fundamental importance to developing a more nuanced understanding of geographies of state regulation. It also provides a novel way of accounting for, and analysing, forms of resistance both specifically for housing studies and more generally in the wider case of urban studies within which it is located.

Through this innovative approach, we will locate the tensions, evident in the data, within the differing functions of institutions that provide welfare services and public goods on one hand, and institutions that are responsible for surveillance, policing and punishment on the other. What we have found is that there exists a broad homology between the opposition of *the left hand / right hand* binary of the state (Bourdieu 1994, 1998, and 2003) and corresponding opposition of the *civic / domestic* orders of worth (Boltanski and Thevenot 1999, 2006). This, we believe, is an important insight as it provides a much more nuanced understanding of the governing tensions that exist both within and beyond the 'fragmented state'. The research evidence presented here demonstrates the extent to which binary oppositions are already inscribed in the collective conventions (in this case, those of social housing professionals) that 'order' action and 'formalise' discourse.

Before we can proceed, some background and context to the issue are required. The Immigration Act 2016 was an extension of the 2014 Act of the same name. The principle difference involved the punitive element, which was augmented from a fine of up to £3000 to the possibility of a five-year prison sentence (see Crawford, McKee and Leahy 2016 for a full exposition of the prescriptions of the Immigration Act 2016). The Right to Rent provision of the Act makes it a criminal offence to let a property to anyone whose immigration status precludes them from accessing certain prescribed services in the UK. Although the Immigration Act 2016 has been enacted in England and Wales it is yet to be extended to Scotland (for which the 2014 Act is current), although there are clear provisions to do so, a decision that is at the discretion of the Secretary of State for Scotland (for a more detailed account of the

importance of understanding spatial nuances in a UK housing context see Leahy, McKee and Crawford 2017). The legislative implications of this Act are even more pertinent given the growth of the private rented sector (PRS) in recent decades. The PRS increasingly houses a larger proportion of the UK population, and in some parts of the UK is now the second largest housing tenure after home ownership. The creation of Theresa May's 'hostile environment' is not restricted to the housing field. Similar developments have occurred in other public services, including the NHS, with other actors being evoked as 'border agents' including employers, banking staff, and driving instructors (see Crawford, McKee and Leahy 2016 for a much more detailed discussion of the wider implications of the Immigration Act 2016).

The Research

This research is the initial phase of a much larger project, which seeks to explore the practical and theoretical implications of contemporary immigration-control rhetoric. We locate this issue of immigration within the concept of 'evolving geographies of state regulation' (Brenner and Theodore 2002, Peck, Brenner and Theodore 2017). Related to Wacquant's (2008, 2009,2012, 2014) notion of the double regulation of 'the poor', our research has particular relevance for understanding the sociological mechanisms that underpin what Brenner and Theodore (2002: 365) call the 'de-centring of traditional hierarchical bureaucratic forms of governmental control'.

Having published a policy paper (see Crawford, McKee and Leahy 2016) on the potential impact of the Right to Rent section of the Immigration Act 2016 and its implications for Scotland, we took the step of systematically examining 15 consultation responses and briefing papers from key stakeholders. These stakeholder organisations included a number of housing and homeliness charities, refugee and asylum seeker organisations as well as landlords and the umbrella groups that act in their collective interests. These written accounts informed a further empirical study, intended as a seed-corn project. This involved in-depth semi-structured interviews with 11 key stakeholders and included four participants from social landlord organisations, one social landlord representative group, a local authority umbrella group, a director and a policy officer from two different homelessness charities, a housing worker from a refugee charity, a senior lawyer

who acts for (mainly but not exclusively social) landlords in eviction cases, and an employee from a charity that specialises in rural housing issues in Scotland's remote areas and islands. The themes emerging from our qualitative data were highly consistent across the different types of not-for-profit organisations involved in our research. Despite repeated attempts we were unable to obtain the consent of anyone from the private rented sector (PRS) (e.g. landlords, letting agents), however the main PRS umbrella group in England published their own research findings, stating that 82% of their members opposed the Act's Right to Rent prescriptions, even before the penalty was increased from a fine to a five-year prison sentence (see RLA 2014). The fact that we were unable to secure interest in our study from the PRS limits our findings to not for profit organisations. It is, however, reasonable to assume that the reasons why social landlords actively oppose the Right to Rent will undoubtedly be different to those who work in the 'for-profit' sector. Although they have similar practices and professional standards, these two fields of rental housing provision, social and private, will have different logics as well as different motivations and priorities. This is something we would like to follow up in future work. This apparent discontinuity in the way that different professional groups justify their actions have relevance with employers whose relation to their employees is different from the relationship of a welfare professional to their 'client' or service user. Again, this identifies another gap in the research and represents something that would be of value for future consideration.

Whilst we were disappointed not to be able to involve representatives from the BME community in our research, the written responses (to the consultation on what then the Immigration Bill 2015) from organisations such as Positive Action in Housing, Migrant Voice and Migrant Rights Scotland, all opposed the Right to Rent and echoed the wider themes emerging from our qualitative interviews.

This paper will now proceed in five sections. Firstly, it will provide a brief outline of the theoretical précis that underpins our analysis. This will synthesise both a critical sociology and a sociology of critique. It will do this by combining Bourdieusian concepts relating to the classification struggles between groups, the way these classifications are codified and the extent to which they exist in binary form. The second section of the theoretical précis will focus on Boltanski and Thevenot's

Economies of Worth and sociology of justification and critique frameworks, to illuminate the mechanisms through which professionals (in any field) can resist or at least actively oppose the expectations imposed upon them. In this case through a programme of re-regulatory procedures that had previously been the preserve of 'disciplinary' institutions of the state. The third section will integrate these theoretical insights with the qualitative data from our interviews with social housing and third sector professionals. The Discussion section will connect with the specifically urban and regional dimension, focusing on the extent to which the creative destruction of 'actually existing neoliberalism' (Wacquant 2012, 2014; Brenner and Theodore 2002 and 2005; Cahill 2010; Peck, Theodore and Brenner 2013; Bevir et al 2018) has decentred traditional forms of governance, creating new state and non-state apparatuses for imposing upon welfare professionals roles that had previously been the remit of dedicated state institutions (in this case Border Agencies staffed by Immigration Officials). The paper will then conclude by spelling out the value of such a study, what it contributes to the field of urban research and the implications it has for both the academic as well as the policy and practice communities.

Theoretical Précis

Before we locate the issue of immigration control discourse within contemporary research literature, it is necessary to make clear the theoretical foundations upon which our innovative and original synthesis will sit. While acknowledging that there exists a range of alternative theoretical lenses through which to analyse this data, we have chosen a Bourdieusian inspired approach as we believe it captures the dialectical relations between the subjective experiences of individuals and the external environment that give rise to the collective conventions and codified forms that make up professional practice. Although not infallible, we believe that Bourdieu's political anthropology, set within an agonistic set of social relations, characterises the interactions between the fragmented groups that make up the state as a relentless series of classification struggles. From these classification struggles arise the codified practices that constitute the collective conventions, the shared norms and values, as well as the categories of perception that give structure and meaning to human existence. The binary manifestation of these categories, arising from the diacritical nature of perception (Bourdieu 1998), are both the stakes and

weapons over which individuals and groups struggle to make the world, through their struggle to name the world, to say what it is and what should be done about it (See Bourdieu 1990, 2000).

As we shall see when situating this issue within the current literature, the classification struggles between groups helps explain why there exists perceptions of people as either 'deserving' or 'undeserving' of social assistance, as 'genuine' or 'bogus' asylum seekers, or as 'real' or 'fake' victims of trafficking. This 'binary' approach is central to understanding the functioning of the state, with its *left hand* institutions that are largely responsible for welfare and the distribution of social goods and its *right hand* institutions that are largely responsible for surveillance and punishment (Bourdieu 1991, 2000, 2003). The classification struggles of groups vying for the monopoly over the legitimate definitions of the social world have a number of intended and unintended consequences.

Contemporary Immigration control discourse, tropes that implore people to see immigration as a problem, serve a number of different, yet contradictory functions, all of which are related to the relentless progress of 'actually existing neoliberal' policy. Firstly, negative representations generate an entire vocabulary of binary oppositions, which serves to unite some groups by dividing the social world into a 'them/us' dichotomy. Upon this elementary division, immigration rhetoric constructs notions of legitimate/illegitimate, inside/outside, inclusion/exclusion, those with rights/those without rights, those who can stay/those who must leave, etc. Within the frame of the 'Other', a further series of binaries emerge, such as deserving/undeserving, genuine/bogus, victim/chancer, etc.

Secondly, it can be argued that immigration rhetoric unites a wholly disparate group of human beings, most of whom can be categorised under the broad rubric of 'foreigner'. This discursive approach tends to 'lump together' quite disparate groups of 'non-UK citizens' and conflates the widespread differences between asylum seekers and refugees with economic migrants, victims of trafficking and foreign nationals who are serving time in prison (Malloch and Stanley 2005, Bosworth and Guild 2008, Bosworth 2007, 2008, 2014).

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These principles of classification and hierarchisation that have arisen from the struggles between competing state institutions, and that have, over the last 30 or so years, come to represent 'official' discourse on immigration, have centred around socially constructed notions of 'citizenship' (see Balibar 2002 and 2010, Kaufman 2005, Malloch and Stanley 2005, Bosworth 2012, Tyler 2013, Byrne 2016, Malloch and Rigby 2016, Leahy, McKee and Crawford 2017). The rightward tilting of the bureaucratic field (Bourdieu 1994, 1998, 2000, 2003, 2004, Bourdieu and Wacquant 1992, as well as Wacquant 2008, 2009, 2012) a process that entails the encroachment of disciplinary forms of governance into areas previously dominated by the state's welfare function has served to augment the negative tropes surrounding immigrants and immigration.

This paper will argue that the same processes that make up the classification struggles between stakeholder groups, apply to the Right to Rent provision of the Immigration Act 2016. In fact, we would go so far as to argue that the universal nature of classification struggles extends the relevance of our study beyond the confines of the social rented housing sector and its third sector partners, to include the relations between welfare services and the states within which they operate in most, if not all, welfare-capitalist countries in which actually existing neoliberalism is the dominant order.

In our study, these relations are evident in the tensions and oppositions between on one hand, the housing professionals who are being asked to carry out the state's immigration control functions, and on the other, the State and its right-hand institutions charged with the policing and removal of people with irregular immigration status.

Codification and Justification: synthesising critical sociology with the sociology of critique

Adopting an approach that is arguably a development of Goffman's Frame Analysis (1977), 'Boltanski and Thevenot (1999, 2006), have developed a form of 'pragmatic sociology' that captures the essence of the collective conventions that people resort to in certain situations. There is not the space here to do justice to Boltanski and

Thevenot's theoretical and methodological innovations. A very brief summary of the six regimes of worth is tabulated below:

Table 1 Different regimes of worth

Order of Worth	Principle concerns
Market World	The importance of exchange and enterprise. Prioritises competition and self-interest.
Inspired World	The importance of creativity and spirituality. Prioritises the needs of the vulnerable (child, woman, foreigner, homeless person).
Domestic World	The importance of family values and the authority of the 'father'. Prioritises hierarchy and tradition.
World of Renown	The importance of Fame. Prioritises promotional activities and good public relations
Civic World	The importance of social contracts, representation and citizenship rights. Prioritises the needs of the collective over the needs of the individual.

Managerial World (formerly the industrial world in Boltanski and Thevenot 2006)[1]	The Importance of productivity and efficiency. Prioritises experts and specialist professionals working effectively with systems of surveillance and control

The 'economies of worth model' (Boltanski and Thevenot 1999, 2006) breaks from classical sociology in that it is built upon the premise that modern societies, rather than being based on a single order, have a number of interweaving orders, which are applied, not strictly on the social background of persons, but on the situation in which they find themselves having to justify something (their preferences, their actions, their inactions etc.). Orders of worth can be used as justificatory regimes when the external conditions permit. Justificatory regimes are strong when they are 'pure', that is, when they do not rely on compromises with other regimes. Justificatory regimes are weak when there is a mismatch between the regime and the situation in which it is being used.

A housing officer could never justify buying and selling social housing stock for personal enrichment as the *market polity* has little influence in the field of social housing. A housing officer could not easily justify allocating the best social housing to those who are 'important' in the community, as they would struggle to justify their actions using a polity based on the *world of renown*. Similarly, since the *domestic order* has little relevance in a professional setting, housing managers cannot give priority to family members in the allocation of either houses or housing jobs. The *inspired world* is one of the principle sources of tension between social workers, who privilege the needs of the vulnerable client (who may have addiction issues or mental health problems) and housing officers whose priority is the welfare of the entire

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[1] We have changed the name of this polity which was Industrial Order in the original text by Boltanski and Thevenot (2006), because we felt that the industrial polity was a little outdated. The main characteristics of the model have, in a contemporary setting, much more in common with modern Managerialism. Nothing but the title has changed. The characteristics are exactly as they are in the original book On Justification (Boltanski and Thevenot 2006)

tenant community for which they are professionally responsible (for a more detailed account of this tension see Crawford 2015 and Crawford and Flint 2015).

Boltanski and Thevenot (2006) highlight the extent to which the civic order and the welfare state are dialectically linked, that is to say, a 'civic' consciousness gave rise to collectivist and welfarist policy regimes, while at the same time these regimes developed and reinforced a sense of civic consciousness. What isn't quite so clear in Boltanski and Thevenot's (2006) account but has been highlighted in other literature (Somerville 1992, Durham 1993, Gillis 1997, and Buss and Herman 2003, Giroux 2016) is the link between the domestic order of worth and authoritarian (and often rightward leaning) forms of governance. The 'domestic order's' justification of putting the family before community, revering the authority of the father over that of the state, and the privileging of 'more worthy beings' (the king, the father and the boss) over less worthy beings (foreigners, strangers, women and children) has long been associated with the political right. This argument will be developed further in the discussion section. For now, we deem it prudent to outline the key characteristics of both the civic, and domestic orders of worth.

Table 2 The Civic and Domestic Orders of Worth: from Boltanski and Thevenot (2006)

	Civic Order of Worth	Domestic Order of Worth
Higher Common Principle	The Pre-eminence of collectives, community, All, General will, cohesion and solidarity	Hierarchy, Tradition, Generation
Subjects	Collective persons and their representatives Public collectives, Federation, Office, Committee, Elected official, Representative, Delegate, Secretary, Member.	More worthy beings Father, King, Ancestors, Family, Grown-ups, Leader, Boss Less worthy beings Foreigner, Woman, Child, Pet, Others, Visitor, Strangers
Objects	Legal forms, Rights, Legislation, Decree, Order,	Rank, Title, Position, good manners, proper behaviour,

	Measure, Courts, Formality, Procedure, Transcript, Policy, Statement, Ballot, Slogan	gifts, announcements
Relation of Worth	Relation of delegation Membership, Representation, Delegation, Expression (of aspirations)	Authority, Subordination, Respectability, Honour, Shame
Evidence	The legal test Law (the), Rules, (legal), Statutes.	Examples Prejudice

Of course, these are conceptual tools, and it must be reiterated that the housing professionals interviewed did not identify their collective conventions as orders of worth or as polities. These 'frames' do nonetheless provide a useful theoretical lens through which to understand the shared norms and values that professionals revert to when having to justify their actions or criticise the actions of others. It is this theoretical context that will inform the analysis of the data that follows.

Understanding the governing tensions within and beyond the state: an analysis of the findings

Having systematically analysed 15 briefing papers and consultation responses from key stakeholders in Scotland, the main theme that emerged across all participants was one of direct opposition to the Right to Rent. There were many reasons for this opposition that were reiterated in the qualitative interviews (for detailed discussion see Crawford, McKee and Leahy 2016 and 2017). Of concern for this paper is the strongly held belief that immigration control was simply not the landlord's responsibility.

As highlighted above, 82% of members of the Residential Landlords Association, a body that represents the interests of private sector landlords in England opposed the Immigration Act. The House of Commons Briefing Paper (Bate and Ota 2016: 20) admitting it was 'controversial among landlords', reported that most social landlords who took part in the consultation opposed the plan. One consistent claim made in all the interviews, as well as many, if not most, of the written submissions and briefing

papers was that the extension of immigration duties to landlords and social landlord organisations was inappropriate, as it was not within the remit of housing to conduct immigration checks as this quote exemplifies:

> "No, definitely not. It is not a landlord's role. Maybe it conflicts with devolution, but I don't think the aims of the Housing Acts in Scotland are all that different to the aims of housing legislation south of the border". (Housing Association 4)

This comment highlights an important convention, collectively held by those interviewed, that what immigration officers do and what housing officers do, are entirely different, if not completely opposed. The interviewee above acknowledges a shared ethos, between social housing providers beyond the confines of Scotland, to include the UK and Europe. This creates something of a 'generalised' or 'meta' opposition between the field of housing on one hand and the field of immigration control on the other. This opposition, we argue, arises from the *codified* frames through which the relevant professional groups working within each field see their role and the role of others.

Strengthening this point, this next interviewee situates the prescriptions of the Right to Rent legislation in direct opposition to what they see as their function in the social housing field. The binary here is juxtaposed between supporting people to sustain their tenancy by helping them settle into the community on one hand, and the requirement for them to do exactly the opposite if the tenant cannot provide evidence that they have leave to remain on the other:

> "Yes, we become immigration officials and that is not why people work in housing. Absolutely not. It is not our role. We are here to help people. How can we start a tenancy off saying 'we are here to support you? Let's do everything we can to help you. Lets' help you access other services. Let's sort out your benefits. Let's get you engaged in the local community. Welcome!' And then a year later we're saying well sorry we want you out. That is not our role". (Housing Association 1)

This Housing association manager juxtaposes the role of the housing professional, itself conceptualised as 'being there to help people', with the role of the immigration official that is referred to indirectly with reference to enforcing evictions. These two 'actions' are part of the same binary which, linked by the issue of housing, (either providing housing or depriving people of their housing), places the roles of housing officer and immigration officer in direct opposition to each other. We argue that this opposition makes it difficult for the housing professional to justify what they perceive to be an unnecessary and arbitrary decision to deny housing to a household on the grounds of their immigration status.

Expressing the tension between the provision of accommodation and management of housing (a civic good), and the need to carry out immigration checks, this next interviewee emphasises the unfairness of the Act from a landlord perspective.

> "I think landlords are put in a very invidious position, because they are not just the providers of accommodation, but become a bit of a proxy immigration officer and they are not trained to do that, they didn't ask to do that, and I think it is very unfair for the government to expect that". (Third Sector Organisation 1).

The interviewee above outlines the problem of turning housing officers into immigration officers, by extending the state's border control functions to institutions that previously had no involvement in such practices. This is framed as an injustice.

This reconfiguration of the role of housing professionals, and indeed the sector more broadly, was strongly resisted by our interviewees as the quote below illuminates:

> "They want us to become immigration officers. It's not our role. Certainly not and that is not why we are here, we do not do that at the moment, and that is not what we are going to do." (Housing Association 2)

Resistance is critical to understanding how 'actually existing neoliberalism' plays itself out on the ground. Yet there has been little focus on the resistance of front-line

workers within the housing field (for exceptions see McKee 2009; Casey and Allen 2004). In this respect, our contribution here helps expand our understanding of this key issue: both empirically and conceptually.

A key tenet of the civic polity is the importance placed upon upholding rights and meeting statutory obligations. Indeed, the civic order of worth advocates for the clear communication of these 'rights' to members of the community to maintain equality across the entire community. The next example highlights the contractual nature of the tenancy agreement, which (to the mind of the housing professional) is built upon reciprocal relations of trust, another key tenet of the civic polity. The following comment from a housing manager invokes the civic order of worth by referring to the centrality of the contract between landlord and tenant. The tenancy agreement is the justificatory focus here, encapsulating the 'rights-based' approach upon which traditional forms of social housing were founded. For the housing manager below, the ethos of *rights and responsibilities* is central to a sense of social justice and fairness for all, that undergirds the civic order of worth encapsulated in the contract.

> "There is nothing in our tenancy agreement about immigration. So all we are asking people is that they observe the conditions of their tenancy and if they do then they won't run the risk of us trying to repossess the property. The tenancy agreement is a fundamental contract involving the rights and the responsibilities of the landlord and tenant. You keep to your half of the bargain and we will keep to ours, that's the deal". (Housing Association 1).

Tying the triadic nexus of landlord, tenant and community together, this interviewee draws on a number of civic principles such as community development and social cohesion. The singling out of individuals for extraordinary treatment is a principle that is entirely antithetical to the civic order of worth. This trait of 'hierarchising' worthy individuals above those who are less worthy is very much one that belongs in the domestic polity (see table 2 above), as it divides people into deserving and undeserving groups, 'polices' them, and makes 'special rules' for some tenants and not others.

"Yes. There is a regulatory element to this Right to Rent thing, almost a police officer role. [The government and the regulator] have been after a community development, social cohesion approach …so to divide people and say, well *you* can come in and *you* can't and you have got special rules and you haven't and when we knock on the door it might be to say you can't stay here anymore. It changes the relationship between you and the tenants and the community". (Third Sector Organisation 1).

The civic language represented in this next excerpt centres on the desire to make communities stable, by fostering ways in which tenants can settle into safe accommodation, that they can view as long-term and home.

"No. I don't think it is a landlord's role. I think a landlord's role is to provide safe accommodation that people can view as a long-term home. We want people to settle in this community. We want the community to be stable. I definitely do not think it's our role to be implementing the work of the Home Office". (Manager, Housing Association 2).

Since evicting tenants is regarded as a last resort, then housing professionals are concerned that criminalising the landlord will encourage housing professionals to make unjust, unethical and perhaps unlawful attempts to enter the process of 'summary eviction'. This justification, below, is challenged when an eviction takes place, not for reasons of 'behaviour', but simply because of a person's immigration status.

"This doesn't make sense, but yet we are going to be compelled to do it, and it will make some members of staff incredibly uncomfortable and perhaps not want to engage with it. If it becomes a process and a procedure around taking someone to court, most people will say that's not why I came to work in housing. I don't want to be a part of this. What do you do then? It becomes quite difficult maintaining staff morale and that kind of thing". (Housing Association 3)

Moving from personal preference to collective convention by invoking the civic order of worth does not, for the stakeholders at least, simply apply to the work done by social landlords, it extends to other areas such as the private rented housing sector. Recent legislation in Scotland now affords private sector tenants greater security of tenure – a right that is undermined by the Rent to Rent (see Crawford, McKee and Leahy 2016 for further discussion). The Private Housing (Tenancies) (Scotland) Act 2016 removes the ability of landlords to end the tenancy without having grounds, that are laid down by the Act, to do so. In 2017 the imposition of this Act augmented the tenant's security of tenure by replacing the Short Assured Tenancy (SAT) with the Scottish Private Residential Tenancy (SPRT).

> "If they go ahead with what is proposed in England, where a landlord can summarily evict, that completely undermines the messages from the Private (Tenancies) (Scotland) Act 2016. The whole point about that was to get a very clear message to private landlords that every eviction has to be subject to due legal process… If we are then saying except for this one where you can just evict people by knocking on the door. I think [the Immigration Act] reinforces all of that bad practice about illegal evictions which we have been trying to eliminate". (Third Sector Organisation 1)

The objections to the 'discriminatory' language used in the Immigration Act 2016 all had civic undertones, as the Act was seen to encourage practices that involved the demonization of certain groups, singling people out as 'exceptional' in so far as they were deemed 'illegal'. This sits in direct opposition to the language of community cohesion and social inclusion that underpins the civic order of worth. Although no one articulates the issue as such, there seems to be something of a problem with current immigration control rhetoric, shifting the criminalising gaze from 'behaviour' to 'status' (see Malloch and Rigby 2016 for a fuller debate on this aspect of immigration control).

> "We wouldn't use the term 'illegal' migrants or 'failed' asylum seekers because that in itself implies that the person is illegal or that the person has, in some way, failed. We prefer to use the term "people with irregular

immigration status… For many years we have been campaigning against the term illegal immigrant, or illegal migrant. Our position is that people can't be illegal. It's possible to have done something illegal, but it is not possible to 'be' illegal. This legislation is smattered with the terms, which when we read it, we find quite offensive" (Third Sector Organisation 2).

This interviewee makes a profound observation. The Council of Europe have advised that the UK stop using terminology such as 'illegal' migrants and 'failed' asylum seekers and should, instead, use much more progressive language, such as 'undocumented migrants' or 'people with irregular immigration status' (Malloch 2016).

Discussion: developing theory and understanding practice

This section will draw together the subjective aspects of our study, through the personal accounts of our interviewees and the objective structures within which they are located. Since the dismantling of the Fordist-Keynesian compact, the state, almost irrespective of country, has undergone radical change which, rather than leading to small government has in fact created a 're-regulated', (as opposed to a deregulated) system of governance (see also Jessop 2000 and Rolnik 2013). This is the site *par excellence* where both state and non-state institutions vie to make the world through the struggle for the monopoly over the legitimate right to name the world, saying what it is and what should be done about it (Bourdieu and Wacquant 1992).

Drawing on Deleuze and Guattari's concept of deterritorialisation and reterritorialization, Brenner and Theodore (2002), as well with Peck (1998, 2001 and 2003) make the claim that one of the spatial effects of actually existing neoliberalism is its propensity for what they call 'creative destruction'. This Brenner and Theodore (2002:362) define with reference to:

> Two dialectically intertwined but analytically distinct moments: the (partial) destruction of extant institutional arrangements and political compromises through market oriented reform initiatives: and the (tendential) creation of a

new infrastructure for market oriented economic growth, commodification and the rule of capital.

These forms of creative destruction are everywhere evident throughout actually existing neoliberalism. Examples that Brenner and Theodore (2002) provide include the wage relation, where national and collective bargaining is dissolved, and individualised forms of performance related remuneration are put in its place. Financial and monetary regulation is another, where regulatory constraints are dismantled along with the state's ability to control exchange rates. These are replaced by speculative currency markets with stateless monies being funnelled into off-shore secrecy jurisdictions. A more concrete example is that of uneven spatial development where a selective withdrawal of state support for certain regions takes place at the same time new forms of state policy promote capital mobility, encouraging investment in strategic city-regions and financial as well as industrial districts (Brenner and Theodore 2002: 366).

Our findings, that housing professionals in the social rented sector actively resist on the one hand, the destruction of a regime within which they had a great deal of personal attachment and derived a degree of 'social meaning' and on the other the imposition of a set of practices they cannot justify within the civic order that governs traditional forms of welfare provision, fits, we argue, with the creative destruction thesis. Indeed, Brenner and Theodore locate this process within the site of the state and other forms of governance (2002: 365). The moment of destruction is represented by the erosion of statutory housing rights that the Immigration Act 2016 strips from certain groups. The moment of creation appears in the enactment of laws that demand that landlords adhere to a raft of legal obligations, extending their remit to include roles that were previously reserved for other groups, in this case, the active enforcement of border controls.

What our study shows is that this process of creative destruction is a dialectical struggle between groups that occupy opposing sides of the classificatory divide. On the one hand, there is a persistent anti-immigration rhetoric which, advanced through much of the mainstream media in the UK, is framed around a 'domestic polity'. This 'domestic order of worth' promotes hierarchies (more worthy beings) that privileges

the rule of the father, (the sovereign ruler, the boss, the manager) while relegating the role of lesser beings (women and children, strangers and immigrants). This 'domestic' order is also an individualising trope (the family before the state, 'us' before 'them', 'insiders' before 'outsiders' etc.) that actively promotes a perspective on welfare that is motivated by the need to protect scarce resources, rather than promoting the redistribution of wealth. This 'domestic' polity sits in opposition to the 'civic' order of worth which rejects the individualising discourse of the family and family values, in favour of a collectivist approach in which the 'good of the many' is promoted over that of the individual or the few.

Connecting the subjective perspective of the interviewees discussed, with the objectivist view characterised by the discussion above regarding the propensities of actually existing neoliberalism towards creative destruction, shows the extent to which these intersubjective perspectives and the material and symbolic realities from which they have arisen, are inextricably linked.

Our findings resonate with the work of Gilbert (2005) which, focusing on the North American City shows that although the neoliberal politics of immigration has restructured the geographies of state regulation, it hasn't done so without resistance. As with our own study, Gilbert (2005:29) found that the economic and political contradictions with which neoliberalism is riven has created something of a 'democratic deficit' for immigrants and refugees. It is this democratic deficit which gives rise to active resistance, not just from immigrant groups, but as our data suggests, from those organisations and institutions for whom the support and welfare of immigrants is of great importance, and from which they derive meaning and give themselves a sense of purpose.

Conclusion

As the first part of a much larger project, this research has provided a number of insights into both the development of urban governance and the changing geographies of state regulation. Firstly, the process of decentring forms of governance is clearly visible in the Right to Rent part of the UK's Immigration Act 2016. Secondly, what this paper has shown is that the neoliberal propensity for creative destruction entails an uneven, irrational, and contradictory process (Brenner

and Theodore 2002, 2005, and Peck, Brenner and Theodor 2009, 2013 and 2017) that never simply obliterates the previous 'order' by replacing it with a new one. In line with Bourdieu's agonistic depiction of the fragmented state (Bourdieu 2014) the data presented here shows the extent to which welfare agencies can be in direct opposition to policy makers and the legislature, a tension that can never be fully resolved through acts of governance. Although this study of the Right to Rent part of the Immigration Act 2016 focused on the widespread resistance of social housing professionals, the implications for urban sociology and the development of a more profound understanding of the dynamics of creative destruction reach beyond this narrow field to include a much more comprehensive range of welfare geographies, all of which have international implications.

This phenomenological approach to the myriad ways in which welfare professionals 'frame' their reality and imbue it with 'meaning' is important for understanding how neoliberal regulatory spaces and policy landscapes are imposed and the extent to which they are either accepted or indeed resisted. This innovative approach to understanding the practices of welfare professionals also provides a novel way of understanding 'resistance' by accounting for the 'subjective' responses to the imposition of socially constructed forms of political reality. Taking seriously the views of welfare professionals can, when combined with an objectivist view, highlight how the contested interactions between traditional practices and emergent paternal forms of punitive authoritarianism make and remake institutional practices within welfare capitalist societies. The opposition between civic and domestic orders of worth manifests in the binaries that pit welfare professionals against what they perceive to be very specific changes in policy and practice, that they can no longer 'justify' within their own professional settings. The idea of there being 'legal' and 'illegal' immigrants is rejected because, for them, such a binary simply does not apply to 'other human beings'. The dichotomy of genuine and bogus asylum seekers is resisted, because the civic order is founded upon principles of rights and the responsibilities of the state. The division characterised by notions that human beings can be classified as either deserving or undeserving of social assistance is deemed abhorrent by the interviewees in our study, because it is regarded as representing

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the very worst kind of domestic individualism, where strangers and foreigners tend to be subordinated in favour of 'family' and 'friends'.

In short, what our study shows is that this neoliberalising process of creative destruction is a dialectical struggle between groups that often occupy opposing sides of the classificatory divide. Because the classificatory struggles between opposing sides of state activity manifest in binary form, there will always exist the potential for resistance. The question for future research is, to what extent will welfare professionals resist, and in which circumstances will they comply?

The Immigration Act and its punitive Right to Rent prescriptions, provide evidence of the contradictory, re-regulating, deregulating, and restructuring strategies that work to destabilise spaces of urban governance. By extending the responsibility for border control to landlords and other housing professionals (among other groups), the last vestiges of the welfare settlement that accompanied the Fordist-Keynesian Compact, are actively being eroded and replaced with the contradictory and unstable forms of neoliberal urban authoritarianism.

The analysis of the findings of this study has wider implications that stretch beyond the discipline of urban studies and that transcend the geographical boundaries of a globalised world in which the movement of people is a central feature of contemporary political struggles. Immigration policy has been a decisive feature of a number of recent elections in both Europe and the US and has been a key issue in both the Brexit vote in the UK (Virdee and McGeever 2017, Warren 2016) and the election of Donald Trump in the US (Giroux 2016). By exploring an important aspect of the relations between power and resistance, this study suggests that struggles against immigration policies that are seen to undermine social justice, can arise simultaneously from both popular movements and from sectors within the state. Protests in the UK in early 2018, at the deportation of Afro-Caribbean's who had arrived as British citizens in the late 1940s on HMS Windrush, was publicly directed at the UK government's 'hostile environment' policy towards immigrants. The public protests in the US in the summer of 2018, at the incarceration of the children of immigrants who appeared to be locked up in 'cages', is also evidence that the issue divides public opinion in North America. This study has made a contribution to

understanding these governing tensions within and beyond the state, the wider implications of which are becoming ever more evident as the issue of immigration continues to dominate contemporary politics, almost without geographical exception, right across the globe.

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