



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

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3 ***The Right to Rent: active resistance to evolving geographies of state***
4 ***regulation.***
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7 ***Abstract***
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9 Drawing on recent qualitative research on the UK's Immigration Act 2016, this paper
10 sets out to explain the opposition of social housing professionals to the imposition of
11 the Right to Rent. By locating this policy intervention within the evolving geographies
12 of state regulation, it is possible to account for the mechanisms through which
13 housing professionals can resist the extension of duties that had previously been the
14 remit of border agents and immigration officials. Synthesising Bourdieu's critical
15 sociology with Boltanski and Thevenot's sociology of critique helps explain not only
16 the governmental underpinnings of contemporary immigration rhetoric, but also the
17 forms of resistance for which housing professionals display a strong justification in
18 exercising. The universal nature of 'classification struggles' within and beyond state
19 institutions, extends the relevance of this research to encompass most, if not all
20 welfarist regimes that operate within actually existing neoliberal orders. The
21 analysis of the findings of this research has wider implications that reach beyond
22 housing and urban studies while immigration persists as one of the most significant
23 contemporary political issues, almost without geographical exception, right across
24 the globe.
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36 ***Key words: Actually Existing Neoliberalism, Economies of worth, Sociology of***
37 ***critique, Geographies of State Regulation, Housing, Immigration***
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39
40 Dr Joe Crawford (corresponding author), Department of Urban Studies and Planning,
41 University of Sheffield, Western Bank, Sheffield, S10 2TN. Email:
42 j.crawford@sheffield.ac.uk.
43
44

45 Dr Kim McKee, School of Geography and Sustainable Development, Irvine Building,
46 University of St Andrews, North Street, St Andrews, Fife Scotland, KY16 9AL. Email:
47 km410@st-andrews.ac.uk
48
49

50
51 Dr Sharon Leahy, School of Geography and Sustainable Development, Irvine
52 Building, University of St Andrews, North Street, St Andrews, Fife Scotland, KY16
53 9AL. Email: sl65@st-andrews.ac.uk
54
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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 2002) 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.

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3 The Right to Rent Provisions of the Immigration Act 2016 make it a criminal offence
4 for a residential landlord or letting agent to rent a property to a tenant who does not
5 have leave to remain within the UK. This Act is part of what Theresa May has
6 deemed a requirement to make the UK a 'hostile environment' for illegal immigrants.
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10 This approach to urban sociology through the lens of justificatory regimes employed
11 by welfare professionals is, we argue, of fundamental importance to developing a
12 more nuanced understanding of geographies of state regulation. It also provides a
13 novel way of accounting for, and analysing, forms of resistance both specifically for
14 housing studies and more generally in the wider case of urban studies within which it
15 is located.
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20 Through this innovative approach, we will locate the tensions, evident in the data,
21 within the differing functions of institutions that provide welfare services and public
22 goods on one hand, and institutions that are responsible for surveillance, policing
23 and punishment on the other. What we have found is that there exists a broad
24 homology between the opposition of *the left hand / right hand* binary of the state
25 (Bourdieu 1994, 1998, and 2003) and corresponding opposition of the *civic /*
26 *domestic* orders of worth (Boltanski and Thevenot 1999, 2006). This, we believe, is
27 an important insight as it provides a much more nuanced understanding of the
28 governing tensions that exist both within and beyond the 'fragmented state'. The
29 research evidence presented here demonstrates the extent to which binary
30 oppositions are already inscribed in the collective conventions (in this case, those of
31 social housing professionals) that 'order' action and 'formalize' discourse.
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41 Before we can proceed, some background and context to the issue are required.
42 The Immigration Act 2016 was an extension of the 2014 Act of the same name. The
43 principle difference involved the punitive element, which was augmented from a fine
44 of up to £3000 to the possibility of a five-year prison sentence (see Crawford, McKee
45 and Leahy 2016 for a full exposition of the prescriptions of the Immigration Act
46 2016). The Right to Rent provision of the Act makes it a criminal offence to let a
47 property to anyone whose immigration status precludes them from accessing certain
48 prescribed services in the UK. Although the Immigration Act 2016 has been enacted
49 in England and Wales it is yet to be extended to Scotland (for which the 2014 Act is
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3 current), although there are clear provisions to do so, a decision that is at the
4 discretion of the Secretary of State for Scotland (for a more detailed account of the
5 importance of understanding spatial nuances in a UK housing context see Leahy,
6 McKee and Crawford 2017). The legislative implications of this Act are even more
7 pertinent given the growth of the private rented sector (PRS) in recent decades. The
8 PRS increasingly houses a larger proportion of the UK population, and in some parts
9 of the UK is now the second largest housing tenure after home ownership. The
10 creation of Theresa May's 'hostile environment' is not restricted to the housing field.
11 Similar developments have occurred in other public services, including the NHS, with
12 other actors being evoked as 'border agents' including employers, banking staff, and
13 driving instructors (see Crawford, McKee and Leahy 2016 for a much more detailed
14 discussion of the wider implications of the Immigration Act 2016).

22 ***The Research***

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25 This research is the initial phase of a much larger project, which seeks to explore the
26 practical and theoretical implications of contemporary immigration-control rhetoric.
27 We locate this issue of immigration within the concept of 'evolving geographies of
28 state regulation' (Brenner and Theodore 2002, Peck, Brenner and Theodore 2017).
29 Related to Wacquant's (2008, 2009, 2012, 2014) notion of the double regulation of
30 'the poor', our research has particular relevance for understanding the sociological
31 mechanisms that underpin what Brenner and Theodore (2002: 365) call the 'de-
32 centring of traditional hierarchical bureaucratic forms of governmental control'.
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39 Having published a policy paper (see Crawford, McKee and Leahy 2016) on the
40 potential impact of the Right to Rent section of the Immigration Act 2016 and its
41 implications for Scotland, we took the step of systematically examining 15
42 consultation responses and briefing papers from key stakeholders. These
43 stakeholder organisations included a number of housing and homeliness charities,
44 refugee and asylum seeker organisations as well as landlords and the umbrella
45 groups that act in their collective interests. These written accounts informed a
46 further empirical study, intended as a seed-corn project. This involved in-depth
47 semi-structured interviews with 11 key stakeholders and included four participants
48 from social landlord organisations, one social landlord representative group, a local
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3 authority umbrella group, a director and a policy officer from two different
4 homelessness charities, a housing worker from a refugee charity, a senior lawyer
5 who acts for (mainly but not exclusively social) landlords in eviction cases, and an
6 employee from a charity that specializes in rural housing issues in Scotland's remote
7 areas and islands. The themes emerging from our qualitative data were highly
8 consistent across the different types of not-for-profit organisations involved in our
9 research. Despite repeated attempts we were unable to obtain the consent of
10 anyone from the private rented sector (PRS) (e.g. landlords, letting agents), however
11 the main PRS umbrella group in England published their own research findings,
12 stating that 82% of their members opposed the Act's Right to Rent prescriptions,
13 even before the penalty was increased from a fine to a five-year prison sentence
14 (see RLA 2014). The fact that we were unable to secure interest in our study from
15 the PRS limits our findings to not for profit organisations. It is, however, reasonable
16 to assume that the reasons why social landlords actively oppose the Right to Rent
17 will undoubtedly be different to those who work in the 'for-profit' sector. Although
18 they have similar practices and professional standards, these two fields of rental
19 housing provision, social and private, will have different logics as well as different
20 motivations and priorities. This is something we would like to follow up in future
21 work. This apparent discontinuity in the way that different professional groups justify
22 their actions have relevance with employers whose relation to their employees is
23 different from the relationship of a welfare professional to their 'client' or service user.
24 Again, this identifies another gap in the research and represents something that
25 would be of value for future consideration.

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

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50 This paper will now proceed in five sections. Firstly, it will provide a brief outline of
51 the theoretical précis that underpins our analysis. This will synthesize both a critical
52 sociology and a sociology of critique. It will do this by combining Bourdieusian
53 concepts relating to the classification struggles between groups, the way these

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3 classifications are codified and the extent to which they exist in binary form. The
4 second section of the theoretical précis will focus on Boltanski and Thevenot's
5 Economies of Worth and sociology of justification and critique frameworks, to
6 illuminate the mechanisms through which professionals (in any field) can resist or at
7 least actively oppose the expectations imposed upon them. In this case through a
8 programme of re-regulatory procedures that had previously been the preserve of
9 'disciplinary' institutions of the state. The third section will integrate these theoretical
10 insights with the qualitative data from our interviews with social housing and third
11 sector professionals. The Discussion section will connect with the specifically urban
12 and regional dimension, focusing on the extent to which the creative destruction of
13 'actually existing neoliberalism' (Wacquant 2012, 2014; Brenner and Theodore 2002
14 and 2005; Cahill 2010; Peck, Theodore and Brenner 2013; Bevir et al 2018) has
15 decentred traditional forms of governance, creating new state and non-state
16 apparatuses for imposing upon welfare professionals roles that had previously been
17 the remit of dedicated state institutions (in this case Border Agencies staffed by
18 Immigration Officials). The paper will then conclude by spelling out the value of such
19 a study, what it contributes to the field of urban research and the implications it has
20 for both the academic as well as the policy and practice communities.
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32 ***Theoretical Précis***

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35 Before we locate the issue of immigration control discourse within contemporary
36 research literature, it is necessary to make clear the theoretical foundations upon
37 which our innovative and original synthesis will sit. While acknowledging that there
38 exists a range of alternative theoretical lenses through which to analyse this data, we
39 have chosen a Bourdieusian inspired approach as we believe it captures the
40 dialectical relations between the subjective experiences of individuals and the
41 external environment that give rise to the collective conventions and codified forms
42 that make up professional practice. Although not infallible, we believe that
43 Bourdieu's political anthropology, set within an agonistic set of social relations,
44 characterizes the interactions between the fragmented groups that make up the state
45 as a relentless series of classification struggles. From these classification struggles
46 arise the codified practices that constitute the collective conventions, the shared
47 norms and values, as well as the categories of perception that give structure and
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3 meaning to human existence. The binary manifestation of these categories, arising
4 from the diacritical nature of perception (Bourdieu 1998), are both the stakes and
5 weapons over which individuals and groups struggle to make the world, through their
6 struggle to name the world, to say what it is and what should be done about it (See
7 Bourdieu 1990, 2000).

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

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

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

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7 These principles of classification and hierarchisation that have arisen from the
8 struggles between competing state institutions, and that have, over the last 30 or so
9 years, come to represent 'official' discourse on immigration, have centred around
10 socially constructed notions of 'citizenship' (see Balibar 2002 and 2010, Kaufman
11 2005, Malloch and Stanley 2005, Bosworth 2012, Tyler 2013, Byrne 2016, Malloch
12 and Rigby 2016, Leahy, McKee and Crawford 2017). The rightward tilting of the
13 bureaucratic field (Bourdieu 1994, 1998, 2000, 2003, 2004, Bourdieu and Wacquant
14 1992, as well as Wacquant 2008, 2009, 2012) a process that entails the
15 encroachment of disciplinary forms of governance into areas previously dominated
16 by the state's welfare function has served to augment the negative tropes
17 surrounding immigrants and immigration.
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22 This paper will argue that the same processes that make up the classification
23 struggles between stakeholder groups, apply to the Right to Rent provision of the
24 Immigration Act 2016. In fact, we would go so far as to argue that the universal
25 nature of classification struggles extends the relevance of our study beyond the
26 confines of the social rented housing sector and its third sector partners, to include
27 the relations between welfare services and the states within which they operate in
28 most, if not all, welfare-capitalist countries in which actually existing neoliberalism is
29 the dominant order.
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34 In our study, these relations are evident in the tensions and oppositions between on
35 one hand, the housing professionals who are being asked to carry out the state's
36 immigration control functions, and on the other, the State and its right-hand
37 institutions charged with the policing and removal of people with irregular
38 immigration status.
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43 ***Codification and Justification: synthesising critical sociology with the***
44 ***sociology of critique***
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49 Adopting an approach that is arguably a development of Goffman's Frame Analysis
50 (1977), Boltanski and Thevenot (1999, 2006), have developed a form of 'pragmatic
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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:

Insert Table 1 here

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 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

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3 in Boltanski and Thevenot's (2006) account but has been highlighted in other
4 literature (Somerville 1992, Durham 1993, Gillis 1997, and Buss and Herman 2003,
5 Giroux 2016) is the link between the domestic order of worth and authoritarian (and
6 often rightward leaning) forms of governance. The 'domestic order's' justification of
7 putting the family before community, revering the authority of the father over that of
8 the state, and the privileging of 'more worthy beings' (the king, the father and the
9 boss) over less worthy beings (foreigners, strangers, women and children) has long
10 been associated with the political right. This argument will be developed further in
11 the discussion section. For now, we deem it prudent to outline the key
12 characteristics of both the civic, and domestic orders of worth.
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Insert Table 2 here

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22 Of course, these are conceptual tools, and it must be reiterated that the housing
23 professionals interviewed did not identify their collective conventions as orders of
24 worth or as polities. These 'frames' do nonetheless provide a useful theoretical lens
25 through which to understand the shared norms and values that professionals revert
26 to when having to justify their actions or criticize the actions of others. It is this
27 theoretical context that will inform the analysis of the data that follows.
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Understanding the governing tensions within and beyond the state: an analysis of the findings

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35 Having systematically analysed 15 briefing papers and consultation responses from
36 key stakeholders in Scotland, the main theme that emerged across all participants
37 was one of direct opposition to the Right to Rent. There were many reasons for this
38 opposition that were reiterated in the qualitative interviews (for detailed discussion
39 see Crawford, McKee and Leahy 2016 and 2017). Of concern for this paper is the
40 strongly held belief that immigration control was simply not the landlord's
41 responsibility.
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47 As highlighted above, 82% of members of the Residential Landlords Association, a
48 body that represents the interests of private sector landlords in England opposed the
49 Immigration Act. The House of Commons Briefing Paper (Bate and Ota 2016: 20)
50 admitting it was 'controversial among landlords', reported that most social landlords
51 who took part in the consultation opposed the plan. One consistent claim made in all
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3 the interviews, as well as many, if not most, of the written submissions and briefing
4 papers was that the extension of immigration duties to landlords and social landlord
5 organisations was inappropriate, as it was not within the remit of housing to conduct
6 immigration checks as this quote exemplifies:
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10 “No, definitely not. It is not a landlord’s role. Maybe it conflicts with devolution,
11 but I don’t think the aims of the Housing Acts in Scotland are all that different
12 to the aims of housing legislation south of the border”. (Housing Association
13 4)
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17 This comment highlights an important convention, collectively held by those
18 interviewed, that what immigration officers do and what housing officers do, are
19 entirely different, if not completely opposed. The interviewee above acknowledges a
20 shared ethos, between social housing providers beyond the confines of Scotland, to
21 include the UK and Europe. This creates something of a ‘generalized’ or ‘meta’
22 opposition between the field of housing on one hand and the field of immigration
23 control on the other. This opposition, we argue, arises from the *codified* frames
24 through which the relevant professional groups working within each field see their
25 role and the role of others.
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29 Strengthening this point, this next interviewee situates the prescriptions of the Right
30 to Rent legislation in direct opposition to what they see as their function in the social
31 housing field. The binary here is juxtaposed between supporting people to sustain
32 their tenancy by helping them settle into the community on one hand, and the
33 requirement for them to do exactly the opposite if the tenant cannot provide evidence
34 that they have leave to remain on the other:
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38 “Yes, we become immigration officials and that is not why people work in
39 housing. Absolutely not. It is not our role. We are here to help people. How
40 can we start a tenancy off saying ‘we are here to support you? Let’s do
41 everything we can to help you. Let’s help you access other services. Let’s
42 sort out your benefits. Let’s get you engaged in the local community.
43 Welcome!’ And then a year later we’re saying well sorry we want you out.
44 That is not our role”. (Housing Association 1)
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3 This Housing association manager juxtaposes the role of the housing professional,
4 itself conceptualized as 'being there to help people', with the role of the immigration
5 official that is referred to indirectly with reference to enforcing evictions. These two
6 'actions' are part of the same binary which, linked by the issue of housing, (either
7 providing housing or depriving people of their housing), places the roles of housing
8 officer and immigration officer in direct opposition to each other. We argue that this
9 opposition makes it difficult for the housing professional to justify what they perceive
10 to be an unnecessary and arbitrary decision to deny housing to a household on the
11 grounds of their immigration status.
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19 Expressing the tension between the provision of accommodation and management
20 of housing (a civic good), and the need to carry out immigration checks, this next
21 interviewee emphasises the unfairness of the Act from a landlord perspective.
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25 "I think landlords are put in a very invidious position, because they are not
26 just the providers of accommodation, but become a bit of a proxy
27 immigration officer and they are not trained to do that, they didn't ask to do
28 that, and I think it is very unfair for the government to expect that". (Third
29 Sector Organisation 1).
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35 The interviewee above outlines the problem of turning housing officers into
36 immigration officers, by extending the state's border control functions to institutions
37 that previously had no involvement in such practices. This is framed as an injustice.
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41 This reconfiguration of the role of housing professionals, and indeed the sector more
42 broadly, was strongly resisted by our interviewees as the quote below illuminates:
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46 "They want us to become immigration officers. It's not our role. Certainly
47 not and that is not why we are here, we do not do that at the moment, and
48 that is not what we are going to do." (Housing Association 2)
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53 Resistance is critical to understanding how 'actually existing neoliberalism' plays
54 itself out on the ground. Yet there has been little focus on the resistance of front-line
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3 workers within the housing field (for exceptions see McKee 2009; Casey and Allen
4 2004). In this respect, our contribution here helps expand our understanding of this
5 key issue: both empirically and conceptually.
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9 A key tenet of the civic polity is the importance placed upon upholding rights and
10 meeting statutory obligations. Indeed, the civic order of worth advocates for the
11 clear communication of these 'rights' to members of the community to maintain
12 equality across the entire community. The next example highlights the contractual
13 nature of the tenancy agreement, which (to the mind of the housing professional) is
14 built upon reciprocal relations of trust, another key tenet of the civic polity. The
15 following comment from a housing manager invokes the civic order of worth by
16 referring to the centrality of the contract between landlord and tenant. The tenancy
17 agreement is the justificatory focus here, encapsulating the 'rights-based' approach
18 upon which traditional forms of social housing were founded. For the housing
19 manager below, the ethos of *rights and responsibilities* is central to a sense of social
20 justice and fairness for all, that undergirds the civic order of worth encapsulated in
21 the contract.
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32 "There is nothing in our tenancy agreement about immigration. So all we are
33 asking people is that they observe the conditions of their tenancy and if they
34 do then they won't run the risk of us trying to repossess the property. The
35 tenancy agreement is a fundamental contract involving the rights and the
36 responsibilities of the landlord and tenant. You keep to your half of the
37 bargain and we will keep to ours, that's the deal". (Housing Association 1).
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43 Tying the triadic nexus of landlord, tenant and community together, this interviewee
44 draws on a number of civic principles such as community development and social
45 cohesion. The singling out of individuals for extraordinary treatment is a principle that
46 is entirely antithetical to the civic order of worth. This trait of 'hierarchising' worthy
47 individuals above those who are less worthy is very much one that belongs in the
48 domestic polity (see table 2 above), as it divides people into deserving and
49 undeserving groups, 'polices' them, and makes 'special rules' for some tenants and
50 not others.
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4 “Yes. There is a regulatory element to this Right to Rent thing, almost a
5 police officer role. [The government and the regulator] have been after a
6 community development, social cohesion approach ...so to divide people
7 and say, well *you* can come in and *you* can't and you have got special rules
8 and you haven't and when we knock on the door it might be to say you can't
9 stay here anymore. It changes the relationship between you and the tenants
10 and the community”. (Third Sector Organisation 1).
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17 The civic language represented in this next excerpt centres on the desire to make
18 communities stable, by fostering ways in which tenants can settle into safe
19 accommodation, that they can view as long-term and home.
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24 “No. I don't think it is a landlord's role. I think a landlord's role is to provide
25 safe accommodation that people can view as a long-term home. We want
26 people to settle in this community. We want the community to be stable. I
27 definitely do not think it's our role to be implementing the work of the Home
28 Office”. (Manager, Housing Association 2).
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33 Since evicting tenants is regarded as a last resort, then housing professionals are
34 concerned that criminalising the landlord will encourage housing professionals to
35 make unjust, unethical and perhaps unlawful attempts to enter the process of
36 'summary eviction'. This justification, below, is challenged when an eviction takes
37 place, not for reasons of 'behaviour', but simply because of a person's immigration
38 status.
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45 “This doesn't make sense, but yet we are going to be compelled to do it, and
46 it will make some members of staff incredibly uncomfortable and perhaps not
47 want to engage with it. If it becomes a process and a procedure around
48 taking someone to court, most people will say that's not why I came to work
49 in housing. I don't want to be a part of this. What do you do then? It becomes
50 quite difficult maintaining staff morale and that kind of thing”. (Housing
51 Association 3)
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4 Moving from personal preference to collective convention by invoking the civic order
5 of worth does not, for the stakeholders at least, simply apply to the work done by
6 social landlords, it extends to other areas such as the private rented housing sector.
7 Recent legislation in Scotland now affords private sector tenants greater security of
8 tenure – a right that is undermined by the Rent to Rent (see Crawford, McKee and
9 Leahy 2016 for further discussion). The Private Housing (Tenancies) (Scotland) Act
10 2016 removes the ability of landlords to end the tenancy without having grounds, that
11 are laid down by the Act, to do so. In 2017 the imposition of this Act augmented the
12 tenant's security of tenure by replacing the Short Assured Tenancy (SAT) with the
13 Scottish Private Residential Tenancy (SPRT).
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21 “If they go ahead with what is proposed in England, where a landlord can
22 summarily evict, that completely undermines the messages from the Private
23 (Tenancies) (Scotland) Act 2016. The whole point about that was to get a very
24 clear message to private landlords that every eviction has to be subject to due
25 legal process... If we are then saying except for this one where you can just
26 evict people by knocking on the door. I think [the Immigration Act] reinforces
27 all of that bad practice about illegal evictions which we have been trying to
28 eliminate”. (Third Sector Organisation 1)
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35 The objections to the ‘discriminatory’ language used in the Immigration Act 2016 all
36 had civic undertones, as the Act was seen to encourage practices that involved the
37 demonization of certain groups, singling people out as ‘exceptional’ in so far as they
38 were deemed ‘illegal’. This sits in direct opposition to the language of community
39 cohesion and social inclusion that underpins the civic order of worth. Although no
40 one articulates the issue as such, there seems to be something of a problem with
41 current immigration control rhetoric, shifting the criminalising gaze from ‘behaviour’ to
42 ‘status’ (see Malloch and Rigby 2016 for a fuller debate on this aspect of immigration
43 control).
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50 “We wouldn't use the term ‘illegal’ migrants or ‘failed’ asylum seekers
51 because that in itself implies that the person is illegal or that the person has,
52 in some way, failed. We prefer to use the term “people with irregular
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3 immigration status... For many years we have been campaigning against the
4 term illegal immigrant, or illegal migrant. Our position is that people can't be
5 illegal. It's possible to have done something illegal, but it is not possible to
6 'be' illegal. This legislation is smattered with the terms, which when we read it,
7 we find quite offensive" (Third Sector Organisation 2).
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11 This interviewee makes a profound observation. The Council of Europe have
12 advised that the UK stop using terminology such as 'illegal' migrants and 'failed'
13 asylum seekers and should, instead, use much more progressive language, such as
14 'undocumented migrants' or 'people with irregular immigration status' (Malloch
15 2016).
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23 ***Discussion: developing theory and understanding practice***

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25 This section will draw together the subjective aspects of our study, through the
26 personal accounts of our interviewees and the objective structures within which they
27 are located. Since the dismantling of the Fordist-Keynesian compact, the state,
28 almost irrespective of country, has undergone radical change which, rather than
29 leading to small government has in fact created a 're-regulated', (as opposed to a
30 deregulated) system of governance (see also Jessop 2000 and Rolnik 2013). This is
31 the site *par excellence* where both state and non-state institutions vie to make the
32 world through the struggle for the monopoly over the legitimate right to name the
33 world, saying what it is and what should be done about it (Bourdieu and Wacquant
34 1992).
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42 Drawing on Deleuze and Guattari's concept of deterritorialisation and
43 reterritorialization, Brenner and Theodore (2002), as well with Peck (1998, 2001 and
44 2003) make the claim that one of the spatial effects of actually existing neoliberalism
45 is its propensity for what they call 'creative destruction'. This Brenner and Theodore
46 (2002:362) define with reference to:
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51 Two dialectically intertwined but analytically distinct moments: the (partial)
52 destruction of extant institutional arrangements and political compromises
53 through market oriented reform initiatives: and the (tendential) creation of a
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3 new infrastructure for market oriented economic growth, commodification and
4 the rule of capital.
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7 These forms of creative destruction are everywhere evident throughout actually
8 existing neoliberalism. Examples that Brenner and Theodore (2002) provide include
9 the wage relation, where national and collective bargaining is dissolved, and
10 individualized forms of performance related remuneration are put in its place.
11 Financial and monetary regulation is another, where regulatory constraints are
12 dismantled along with the state's ability to control exchange rates. These are
13 replaced by speculative currency markets with stateless monies being funnelled into
14 off-shore secrecy jurisdictions. A more concrete example is that of uneven spatial
15 development where a selective withdrawal of state support for certain regions takes
16 place at the same time new forms of state policy promote capital mobility,
17 encouraging investment in strategic city-regions and financial as well as industrial
18 districts (Brenner and Theodore 2002: 366).
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27 Our findings, that housing professionals in the social rented sector actively resist on
28 the one hand, the destruction of a regime within which they had a great deal of
29 personal attachment and derived a degree of 'social meaning' and on the other the
30 imposition of a set of practices they cannot justify within the civic order that governs
31 traditional forms of welfare provision, fits, we argue, with the creative destruction
32 thesis. Indeed, Brenner and Theodore locate this process within the site of the
33 state and other forms of governance (2002: 365). The moment of destruction is
34 represented by the erosion of statutory housing rights that the Immigration Act 2016
35 strips from certain groups. The moment of creation appears in the enactment of
36 laws that demand that landlords adhere to a raft of legal obligations, extending their
37 remit to include roles that were previously reserved for other groups, in this case, the
38 active enforcement of border controls.
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47 What our study shows is that this process of creative destruction is a dialectical
48 struggle between groups that occupy opposing sides of the classificatory divide. On
49 the one hand, there is a persistent anti-immigration rhetoric which, advanced through
50 much of the mainstream media in the UK, is framed around a 'domestic polity'. This
51 'domestic order of worth' promotes hierarchies (more worthy beings) that privileges
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3 the rule of the father, (the sovereign ruler, the boss, the manager) while relegating
4 the role of lesser beings (women and children, strangers and immigrants). This
5 'domestic' order is also an individualising trope (the family before the state, 'us'
6 before 'them', 'insiders' before 'outsiders' etc.) that actively promotes a perspective
7 on welfare that is motivated by the need to protect scarce resources, rather than
8 promoting the redistribution of wealth. This 'domestic' polity sits in opposition to the
9 'civic' order of worth which rejects the individualising discourse of the family and
10 family values, in favour of a collectivist approach in which the 'good of the many' is
11 promoted over that of the individual or the few.
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18 Connecting the subjective perspective of the interviewees discussed, with the
19 objectivist view characterized by the discussion above regarding the propensities of
20 actually existing neoliberalism towards creative destruction, shows the extent to
21 which these intersubjective perspectives and the material and symbolic realities from
22 which they have arisen, are inextricably linked.
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27 Our findings resonate with the work of Gilbert (2005) which, focusing on the North
28 American City shows that although the neoliberal politics of immigration has
29 restructured the geographies of state regulation, it hasn't done so without resistance.
30 As with our own study, Gilbert (2005:29) found that the economic and political
31 contradictions with which neoliberalism is riven has created something of a
32 'democratic deficit' for immigrants and refugees. It is this democratic deficit which
33 gives rise to active resistance, not just from immigrant groups, but as our data
34 suggests, from those organisations and institutions for whom the support and welfare
35 of immigrants is of great importance, and from which they derive meaning and give
36 themselves a sense of purpose.
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44 **Conclusion**

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46 As the first part of a much larger project, this research has provided a number of
47 insights into both the development of urban governance and the changing
48 geographies of state regulation. Firstly, the process of decentring forms of
49 governance is clearly visible in the Right to Rent part of the UK's Immigration Act
50 2016. Secondly, what this paper has shown is that the neoliberal propensity for
51 creative destruction entails an uneven, irrational, and contradictory process (Brenner
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3 and Theodore 2002, 2005, and Peck, Brenner and Theodor 2009, 2013 and 2017)
4 that never simply obliterates the previous 'order' by replacing it with a new one. In
5 line with Bourdieu's agonistic depiction of the fragmented state (Bourdieu 2014) the
6 data presented here shows the extent to which welfare agencies can be in direct
7 opposition to policy makers and the legislature, a tension that can never be fully
8 resolved through acts of governance. Although this study of the Right to Rent part of
9 the Immigration Act 2016 focused on the widespread resistance of social housing
10 professionals, the implications for urban sociology and the development of a more
11 profound understanding of the dynamics of creative destruction reach beyond this
12 narrow field to include a much more comprehensive range of welfare geographies,
13 all of which have international implications.
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21 This phenomenological approach to the myriad ways in which welfare professionals
22 'frame' their reality and imbue it with 'meaning' is important for understanding how
23 neoliberal regulatory spaces and policy landscapes are imposed and the extent to
24 which they are either accepted or indeed resisted. This innovative approach to
25 understanding the practices of welfare professionals also provides a novel way of
26 understanding 'resistance' by accounting for the 'subjective' responses to the
27 imposition of socially constructed forms of political reality. Taking seriously the views
28 of welfare professionals can, when combined with an objectivist view, highlight how
29 the contested interactions between traditional practices and emergent paternal forms
30 of punitive authoritarianism make and remake institutional practices within welfare
31 capitalist societies. The opposition between civic and domestic orders of worth
32 manifests in the binaries that pit welfare professionals against what they perceive to
33 be very specific changes in policy and practice, that they can no longer 'justify' within
34 their own professional settings. The idea of there being 'legal' and 'illegal'
35 immigrants is rejected because, for them, such a binary simply does not apply to
36 'other human beings'. The dichotomy of genuine and bogus asylum seekers is
37 resisted, because the civic order is founded upon principles of rights and the
38 responsibilities of the state. The division characterized by notions that human beings
39 can be classified as either deserving or undeserving of social assistance is deemed
40 abhorrent by the interviewees in our study, because it is regarded as representing
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3 the very worst kind of domestic individualism, where strangers and foreigners tend to
4 be subordinated in favour of 'family' and 'friends'.
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7 In short, what our study shows is that this neoliberalising process of creative
8 destruction is a dialectical struggle between groups that often occupy opposing sides
9 of the classificatory divide. Because the classificatory struggles between opposing
10 sides of state activity manifest in binary form, there will always exist the potential for
11 resistance. The question for future research is, to what extent will welfare
12 professionals resist, and in which circumstances will they comply?
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17 The Immigration Act and its punitive Right to Rent prescriptions, provide evidence of
18 the contradictory, re-regulating, deregulating, and restructuring strategies that work
19 to destabilize spaces of urban governance. By extending the responsibility for
20 border control to landlords and other housing professionals (among other groups),
21 the last vestiges of the welfare settlement that accompanied the Fordist-Keynesian
22 Compact, are actively being eroded and replaced with the contradictory and unstable
23 forms of neoliberal urban authoritarianism.
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29 The analysis of the findings of this study has wider implications that stretch beyond
30 the discipline of urban studies and that transcend the geographical boundaries of a
31 globalized world in which the movement of people is a central feature of
32 contemporary political struggles. Immigration policy has been a decisive feature of a
33 number of recent elections in both Europe and the US and has been a key issue in
34 both the Brexit vote in the UK (Virdee and McGeever 2017, Warren 2016) and the
35 election of Donald Trump in the US (Giroux 2016). By exploring an important aspect
36 of the relations between power and resistance, this study suggests that struggles
37 against immigration policies that are seen to undermine social justice, can arise
38 simultaneously from both popular movements and from sectors within the state.
39 Protests in the UK in early 2018, at the deportation of Afro-Caribbean's who had
40 arrived as British citizens in the late 1940s on HMS Windrush, was publicly directed
41 at the UK government's 'hostile environment' policy towards immigrants. The public
42 protests in the US in the summer of 2018, at the incarceration of the children of
43 immigrants who appeared to be locked up in 'cages', is also evidence that the issue
44 divides public opinion in North America. This study has made a contribution to
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3 uncovering some of the hidden aspects of immigration which, almost without
4 geographical exception, continues to be one of the most significant political issues in
5 our contemporary world.
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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

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)

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.	<u>More worthy beings</u> Father, King, Ancestors, Family, Grown-ups, Leader, Boss <u>Less worthy beings</u> Foreigner, Woman, Child, Pet, Others, Visitor, Strangers
Objects	Legal forms, Rights, Legislation, Decree, Order, Measure, Courts, Formality, Procedure, Transcript, Policy, Statement, Ballot, Slogan	Rank, Title, Position, good manners, proper behaviour, 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