International Journal of Law in Context (2022), **18**, 25–40
doi:10.1017/S1744552322000015

SPECIAL ISSUE ARTICLE

In or against the state? Hospitality and hostility in homelessness charities and deportation practice

Rachael Dobson[1†] and Sarah Turnbull[2*†]

[1]Department of Criminology, School of Law, Birkbeck, University of London, UK and [2]Department of Sociology and Legal Studies, University of Waterloo, Canada
*Corresponding author. E-mail: s3turnbull@uwaterloo.ca

Abstract

This paper examines how deportation became a solution to rough sleeping in pre-Brexit England. It identifies relationships between the social regulation of vulnerable and marginalised adults, contemporary governance arrangements and bordering practices characteristic of Britain's 'hostile environment'. Drawing on media reports and grey organisational literature, the focus of discussion is events across 2015–2018 in which three London-based charities were criticised for working with the Home Office to deport homeless migrants under its European Economic Area Administrative Removal policy. The overall tenor of criticism was that collaboration with the government compromised the organisations' independence and charitable missions and aims. This diminished their capacity to both advocate for vulnerable adults and effectively challenge oppressive state practices. The paper observes how state and nonprofit relations structure institutional and socio-legal responses to marginalised and 'othered' adults through commissioning and contracting mechanisms. It demonstrates that the social and legal control of homeless migrants may be differently constituted by institutions delivering services in relation to citizenship, vulnerability and marginalisation. This analysis incorporates a broader appraisal of institutional motivations, values and beliefs in social welfare delivery, including the historic role of charitable agencies in the criminalisation of social welfare users. Taken together, the paper offers an interdisciplinary critique of the relationships between border control, neoliberal governance and the sociocultural and historic construction of homeless migrants.

Keywords: migration law; socio-legal studies; deportation; homelessness; England; London; Citizens' Rights Directive; rough sleeping

1 Introduction

In 2016, rough sleepers from European Economic Area (EEA) countries became the focus of the UK's hostile environment via the introduction of an EEA Administrative Removal Policy, implemented through Home Office collaboration with three London-based homelessness nonprofit organisations (NPOs): St Mungo's, Thames Reach and Change, Grow, Live. For a period of six months, the NPOs operated under the policy, resulting in the systematic deportation[1] of non-UK national rough sleepers. Drawing on interdisciplinary literatures alongside media reports and grey organisational literature, and using collaboration between the three NPOs and the Home Office as a case-study, this paper demonstrates how deportation became a solution to the 'problem' of EU citizen rough

[†]These authors contributed equally to this paper.

[1]Deportation is a general term that refers to the expulsion of non-citizens from a state's territory. In Great Britain, however, there is a legal distinction between deportation (which relates to expulsion on the basis of criminal offending) and administrative removal. For the sake of simplicity, this paper will use the term deportation even though it is recognised that in legal terms, the majority of homeless non-citizens are being subject to administrative removal.

sleeping in pre-Brexit England, thereby compromising the NPOs' charitable missions and aims, and delimiting their capacity to challenge oppressive and discriminatory state practices.

The paper contributes to socio-legal debates about 'marginalisation' in two ways. First, the case-study examined herein demonstrates how state interventions (re)produce the marginalisation of vulnerable adults, already existing at the margins of society by virtue of their failure to be contained in accordance with contemporary citizen-subject norms. As migrant rough sleepers, they are 'out of place', constructed as 'illegal' and existing 'unhoused'. Second, we observe how social policy institutions typically 'at the margins', by virtue of their status as NPOs, were brought into the oppressive machinations of the 'central-state' via their collusion with Home Office deportation policy.

This paper is divided into three sections. First, we contextualise the case-study by providing a brief discussion of rough sleeping in England, including the increasing numbers of EU citizens sleeping rough, the framing of undesirable and unwanted mobile EU citizens, and the parameters of Britain's 'hostile environment' – a policy approach focused on making 'unwanted' migrants' lives in the UK as difficult as possible. The second section explains the pre-Brexit EEA Administrative Removal Policy, traces its development over the past decade and outlines the involvement of NPOs and subsequent public criticisms of NPO collaboration with the Home Office. Specifically, the three above-mentioned NPOs have been criticised by a range of media and advocacy outlets because of their complicity with oppressive deportation practices – activities enabled through the receipt of state funds via contracting mechanisms. The third section examines how state–NPO relations structure institutional and socio-legal responses to vulnerable, marginalised and 'othered' adults through the marketisation of public service delivery. We consider how contemporary bordering practices characteristic of the hostile environment and deportation policy intersect with the historical role of charitable and philanthropic institutions in the criminalisation of social welfare users and the racialised, gendered and classed social regulation of poor and marginalised groups. It is argued that these phenomena are deeply embedded into the fabric of neoliberal governance, entailing a broader critique that engages with a more critical and relational account of how civil society and state entities articulate elements of the other (Wright *et al.*, 2011). In this sense, NPO–state collaboration to address the social marginalisation of EU rough sleepers is unexceptional and imbricated in the neoliberalisation[2] of social policy and processes of border control.

A note about Brexit. This case-study focuses on the three-year period from 2015 to 2018, which includes the lead-up to the Brexit vote (on 23 June 2016) and its aftermath – a time characterised by some commentators as one of 'economic and political turbulence' and a 'crisis' that was 'overdetermined by racism' (Virdee and McGeever, 2018, p. 1804). It is beyond the scope of the paper to address the issue of Brexit in detail; rather, we draw attention to the broader sociopolitical context in which EU rough sleepers, particularly those from Central and Eastern European (CEE)[3] Member States, were targeted with collaborative NPO–state efforts to deport them. In addition, with the UK having withdrawn from the EU on 31 January 2020, EU rough sleepers are now subject to a different legal regime and set of service provisions by the nonprofit sector (NPS), which is likewise beyond the scope of this paper.

2 Context: rough sleeping, mobile EU citizens and the 'hostile environment'

'Rough sleeping' is a contested and evolving phenomenon, difficult to define and measure. The European Typology of Homelessness and Housing Exclusion (FEANTSA, 2006) classifies people who are homeless according to their living or 'home' situations – an approach that references three domains: physical ('an adequate dwelling/space over which a person and their family can exercise

[2]We understand neoliberalism and processes of neoliberalisation to be racialised and gendered (see e.g. Bhattacharyya, 2013).

[3]CEE countries are Bulgaria, Czech Republic, Estonia, Hungary, Lithuania, Latvia, Poland, Romania, Slovenia and Slovakia. All joined the EU in 2004 with the exception of Bulgaria and Romania, which joined in 2007. Migrants from these countries were subject to differing levels of immigration control and access to the labour market in the UK.

https://doi.org/10.1017/S1744552322000015 Published online by Cambridge University Press

exclusive possession'), social ('being able to maintain privacy and enjoy relations') and legal ('having a legal title to occupation'). Four concepts follow: 'rooflessness', 'houselessness', 'insecure housing' and 'inadequate housing'. Although all indicate the absence of a home, 'rooflessness' refers to 'people living rough' with no abode or access to twenty-four-hour accommodation, or who are staying in an overnight shelter. In England, the recording of homelessness tends to rest on visibility, with data recognising people assessed as 'statutorily homeless' by local authorities under the Homelessness Reduction Act 2017. Local 'rough-sleeper counts' identify the number of people living on the streets in a given night – an approach that does not capture people, particularly women and young queer and trans people (McNair *et al.*, 2017), who reside in secluded locations to achieve bodily and social safety.

Whilst there are considerable challenges in both defining and recording homelessness, a starting point for the present paper is the Greater London Authority (GLA) figures on rough sleeping. Data show that the number of people recorded as sleeping rough in London has increased over the past decade (GLA, 2021), with the majority recorded as male. Crucially, for the present discussion, in London, non-UK nationals make up, on average, about half the number of rough sleepers, with those identified as CEE citizens consistently comprising a quarter to a third of rough sleepers (GLA, 2021). Increases are explained through institutional and financial barriers facing all rough sleepers (i.e. insecure and unaffordable housing, low-wage and precarious employment, austerity) (see Fitzpatrick *et al.*, 2020). However, non-UK nationals experience additional legislative barriers that compound their marginalisation.

Historically, eligibility thresholds in England and Wales have long restricted homeless non-UK nationals' access to statutory resources such as temporary accommodation, resettlement support and housing. However, contemporary Home Office policy has intensified restrictions through the development of measures that actively discourage people from coming to, and 'overstaying' in, the UK. In relation to EU citizens, Burrell and Schweyher observe that

> '[a]lthough EU citizenship and mobility is differentially governed across member states, there is a common logic of conditionality at the heart of the freedom of movement framework which is shaping the experiences of EU migrants as they move and settle.' (Burrell and Schweyher, 2019, p. 1)

There has been a growing governmental focus on so-called 'unwanted' or 'undesirable' mobile EU citizens at the margins of British society – that is, those who 'are perceived as a "burden" to society itself and/or to the welfare systems of various states' (Klaus and Martynowicz, 2021, p. 5). Poverty, criminality and 'race' coalesce in the constitution of 'unwantedness' within political and public discourse (Weber and Bowling, 2008; Klaus and Martynowicz, 2021), as reflected by the targeting of CEE citizens and Roma peoples in particular with deportation.[4]

A well-known facet of managing unwanted mobility is the hostile environment enabled through Immigration Acts 2014 and 2016 that allowed easier deportation of those without leave to remain, made it harder to bring appeals against decisions and limited access to the essentials of an ordinary and private life. In regard to the latter, this legislation made a range of institutions (e.g. medical providers, banking organisations, universities and employers) and private actors (e.g. landlords) part of a network to police non-UK nationals' migration status (see e.g. Griffiths and Yeo, 2021; Yuval-Davis *et al.*, 2018; York, 2018; Bowling and Westenra, 2020). Operating through multiple and intersecting public and private governance scales, this policy approach affects people's access to work, bank accounts, driver's licenses, housing, National Health Services and education provision, and marriage (which is used to infer nationality) (Wallace, 2018). Checks already in place have become more restrictive and exclusionary. For example, the 'Right to Rent' scheme, introduced by the Immigration Act 2016 requiring landlords in England to check the immigration status of tenants and potential tenants, worked to exacerbate and entrench racialised discrimination and exclusion

[4]See Brandariz (2021) for an overview of EU citizen deportation within the EU.

https://doi.org/10.1017/S1744552322000015 Published online by Cambridge University Press

from the private rental market (Mckee *et al.*, 2021), especially given the pre-existing restrictions on EEA nationals' access to housing and benefits (Lukes *et al.*, 2019). Taken together, these measures contributed to rough-sleeping increases amongst non-UK migrants by creating conditions for homelessness, which included both the absence of meaningful support for those in crisis and a targeted deportation strategy. The case-study discussed herein is therefore noteworthy for its blunt and oppressive quality, realised through material governance mechanisms that shape the responses of NPOs to marginalised groups like EU rough sleepers.

3 EEA Administrative Removal Policy: deportation and 'supported reconnection'

The UK's pre-Brexit EEA Administrative Removal Policy (Home Office, 2016) was driven by a (re) interpretation of the Citizens' Rights Directive 2008/34/EC, the directive governing free movement of citizens of the EEA (i.e. EU Member States, Iceland, Norway and Liechtenstein). Under this directive, 'EEA citizens [are granted] the right of free movement and residence across the European Economic Area, as long as they are not an *undue burden* on the country of residence and have comprehensive health insurance' (Demars, 2017, p. 7, emphasis added). EEA nationals may enter the UK and remain as long as they are exercising their free-movement rights through self-employment, work, job-seeking or study, or financial self-sufficiency. From the perspective of the Home Office, the free-movement directive of the EU allowed Member States to impose restrictions on people in certain situations, including where there were concerns about security, public health or fraud. According to Demars (2017, p. 2), the 'strategic intent' behind the piloting of an amended EEA Administrative Removal Policy in 2016 was based on three interrelated concerns: (1) the increase in numbers of EEA nationals, and CEE individuals in particular, sleeping rough in London since 2011; (2) greater numbers of EEA rough sleepers refusing 'reconnection' (i.e. 'voluntary' departure) offers by homelessness charities; and (3) the consistent presence of Roma rough sleepers in the City of Westminster.[5] Westminster is an area that occupies the central district of Greater London and includes key sovereign (e.g. Buckingham Palace) and political sites (e.g. the Houses of Parliament, the prime minister's residence) – 'prime spaces' valued by 'mainstream' society and tourists, with 'unkempt, unpredictable, and mentally unstable individuals' (Stuart, 2014, p. 1911) constituted as out of place. The concern about Roma rough sleepers in Westminster must then be situated in both long-standing efforts to 'cleanse' public space and maintain a desired urban aesthetic (see Amster, 2003) *and* persistent anti-Roma racism, meaning racialised stigmatisation continues to produce 'social and economic exclusion, the cementation of poverty and the precarisation of life' in Western European countries (Teodorescu and Molina, 2021, p. 403; see also Mostowska, 2021).

The Home Office's framing of EEA rough sleeping as a significant social problem – and potential abuse of the Citizens' Rights Directive – led to the integration of immigration enforcement into NPO outreach[6] work between 2015 and 2017 as a way to find homeless EEA nationals who could be deported. NPOs helped Home Office Immigration Compliance and Enforcement (ICE) teams to identify and often detain and deport homeless people (Corporate Watch, 2017, p. 1). St Mungo's reportedly would, in some cases, refer rough sleepers directly to ICE teams (Corporate Watch, 2017).[7]

In 2017, the EEA Administrative Removal Policy was subject to successful legal challenge (Taylor, 2017b). Three men with deportation orders were selected as test cases for a judicial review at the High Court of England and Wales in *R. (Gureckis) v. Secretary of State for the Home Department* [2017] EWHC 3298 (Admin). The claimants were two Polish nationals and one Latvian national who had

[5]The UK is not alone here. Sweden, for example, has raised similar concerns about homeless EU citizens (see e.g. Mostowska, 2021), as has Netherlands (see e.g. Mantu *et al.*, 2021).

[6]Outreach is a model of support that typically involves approaching rough sleepers with a view to engaging them.

[7]One London council disclosed a document from the charity entitled 'Enforcement policy for EU and non-EU nationals not engaging with the outreach team', which explained that if migrant rough sleepers did not agree to voluntarily return to their home countries within twelve weeks, then '[t]hese individuals' details will be passed on to the ICE by the outreach team. Following this a joint shift will be agreed with outreach, ICE, Parks Police to target/tackle these individuals' (Taylor, 2018a).

https://doi.org/10.1017/S1744552322000015 Published online by Cambridge University Press

been found rough sleeping and against whom removal notices had been served. They challenged the legality of the Home Office policy on the basis that it had constructed rough sleeping as an abuse of EU treaty rights, rendering EEA nationals liable to deportation. The claimants argued that the policy: (1) 'was unlawful because rough sleeping could not constitute an "abuse of rights" under Article 35 of Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States', (2) it unlawfully discriminated against EEA citizens and rough sleepers and (3) its application 'involved unlawful systematic verification', meaning that it was not utilised on an individual, case-by-case basis (para. 2). In short, Home Office policy was contrary to EU law. In the High Court's decision, Justice Lang (2017, para. 96) concluded that '[i]t is clear that rough sleeping, even accompanied by low level offending such as begging, drinking in a public place and other street nuisances, would not be grounds for removal under these provisions [Article 27]'. Put simply, Justice Lang patently rejected the Home Office position that rough sleeping constitutes grounds for administrative removal because rough sleeping *in itself* did not establish an abuse of rights.[8] Consequently, reference to rough sleeping was removed from Home Office policy on EEA administrative removal (see Evans, 2020).

One of the consequences of the decision of the High Court – especially for the Home Office – was that nearly 700 individuals were potential claimants for compensation due to their unlawful deportations (Ironmonger, 2018). A second consequence, and the focus of this paper, is that these events surfaced the centrality of state–NPO relations in the expulsion of homeless non-UK nationals, resulting in the sustained criticism of collaborating NPOs by a range of media outlets (e.g. *The Guardian*/*Observer*, *BBC*, *Vice News*, *The Independent*, *politics.co.uk*) and advocacy organisations (e.g. Corporate Watch, Liberty). 'Revealed: Homeless charities "complicit" in rough sleeper deportations' (Bloomer, 2016), 'How charities helped to deport homeless migrants' (Bradley, 2017), 'Tackling homelessness, one deportation at a time' (Rekret, 2017), 'Homeless organisations are helping to deport migrants – doesn't sound very charitable to me' (Major, 2017) and 'It's not charities' job to aid deportations' (Okolosie, 2017) are just some of the headlines that drew attention to the issue.[9] The dominant media narrative of victims and villains (see Mostowska, 2021) cast the Home Office and collaborating NPOs as the villains and deported (or deportable) rough sleepers as the victims of a policy approach that functioned to (re)produce their marginalisation.

Broadly, collaboration with the state works against NPOs' charitable missions[10] and aims, as they relate to advocating for vulnerable and marginalised people (see Charity Commission for England and Wales, 2008) and capacity to fight for social and racial justice. Additionally, collaboration compromises the ability of NPOs to challenge state practices, thereby reducing their essential civil society function. The overall tenor of criticism in the present case-study is that collaboration represented 'another dirty deal', with charities now *active contributors* to Britain's hostile environment (Bradley, 2017). Notably, such reactions were not confined to non-statutory actors and institutions. Mohdin (2019) reports that eleven regional and London-based local councils in England refused data sharing with the Home Office about rough sleepers without their explicit consent on the basis that this violated their privacy and represented failure to provide meaningful support for vulnerable people. Some council leaders also explicitly named the hostile environment as antithetical to their beliefs and practices.

Media reports tend to focus on the events of 2015–2017 and the hostile environment, yet both the EEA Administrative Removal Policy and Home Office collaboration are rooted in a contemporary history of the experimentation of British administrations with different approaches to removing homeless EU citizens as well as preventing their return for a certain period of time. Thus, although EU citizens have always been deportable under EU law (Evans, 2020), the intensified interest in 'problematic' EU

[8]Justice Lang also found that the policy was discriminatory for the less favourable treatment of rough-sleeping EU nationals and enabled systematic verification (Evans, 2020).

[9]Importantly, at the time of writing, similar headlines and stories continue to be published, with much focus on the removal of homeless EU migrants who were eligible for EU settled status after Brexit (see e.g. Bulman, 2021b).

[10]Indeed, complaints were made to both the Charity and Information Commissions about St Mungo's conduct (Bloomer, 2016).

https://doi.org/10.1017/S1744552322000015 Published online by Cambridge University Press

rough sleepers led to an array of removal strategies operating along racialised, classed and gendered lines. The following discussion shows that while the operational policies directed at non-UK national rough sleepers change over time, the central policy position of the Home Office remains constant: '"residing on the streets" as a rough sleeper [is] a type of *deliberate, socially and economically harmful act* amounting to being a misuse of the relevant EU right of residence' (Evans, 2020, p. 308, emphasis added). Those on the margins were thus constituted as harming British society and deemed worthy of expulsion (see Gurnham, this issue).

3.1 Home Office–NPO collaboration

The practice of targeting rough sleepers with deportation has origins in a January 2009 'reconnections'[11] project operated by Thames Reach that focused on 'vulnerable rough sleepers from Central and Eastern Europe "who have expressed a wish to return to their home country"' (Thames Reach, n.d., cited in Demars, 2017, p. 8), resulting in the 'reconnection' of 3,000 people to their home countries between 2009 and 2015. 'Reconnection', as Barnard and Costello (2020) explain, 'is a process whereby EEA nationals who approach their local authority for support around issues with homelessness or destitution are offered support to return to their country of origin as the only path available to them'. In 2010, 'Operation Ark' – a joint endeavour between then UK Border Agency (and latterly the GLA) and NPOs St Mungo's and Thames Reach – piloted the removal of EEA nationals within Westminster who were deemed to be failing to exercise their EU treaty rights by virtue of their rough sleeping. By the close of 2011, seventy individuals were deported with an additional 500 people agreeing to 'voluntary returns' (Demars, 2017, p. 9).

Moving into 2014, re-entry restrictions were incorporated into the EEA deportation process. EU citizens were barred from re-entering the UK for twelve months after their removal unless they could demonstrate changed circumstances (e.g. proof of employment and housing) at the port of entry (Demars, 2017) – a development hailed by the London Mayor's Rough Sleeping Group (LMRSG) (2015, p. 2) as reducing 'the "revolving door" element of reconnecting EU nationals who are sleeping rough'. In 2015, 'Operation Adoze' was launched as a two-month pilot to test 'an amendment to the UK's Immigration (EEA) Regulations by introducing rough sleeping as an "abuse" of the right to freedom of movement' (Demars, 2017, p. 9). Homelessness NPOs worked with ICE teams in Westminster to identify EEA rough sleepers who were 'abusing' their EU treaty rights, irrespective of whether they were *exercising* their treaty rights (e.g. job-seeking or employed) or how long they had been in the UK. This pilot became policy in May 2016. Between November and December 2015, 127 people found rough sleeping were deported (Demars, 2017, p. 2).

Enforcement was embedded into Operation Adoze from the outset. In a 2015 meeting of the LMRSG, immigration enforcement was articulated as a 'last resort, where other approaches to tackling rough sleeping have failed' (LMRSG, 2015, p. 1). At the same time, ICE involvement was deemed necessary in cases in which an EU citizen has 'refused both support with securing employment and voluntary reconnection' (LMRSG, 2015, p. 1). Although '"softer", early enforcement measures' were viewed as useful for helping to prepare 'rough sleepers to accept support …, it can be helpful to make clear that, if [support] is refused, enforcement will be used' (LMRSG, 2015, p. 1). In effect, EU citizens who declined support or refused to participate in their 'voluntary departure' would be subject to immigration enforcement, ranging from the confiscation of identity documents and a notice of removal to confinement in an immigration removal centre and deportation.

In addition to this series of operations, information-sharing practices underpinned Home Office–NPO collaboration. In 2015, the LMRSG (2015, p. 3) noted how access to EU rough sleepers' criminal

[11]Reconnection is defined as 'the process by which people sleeping rough, who have a connection to another area where they can access accommodation and/or social, family and support networks, are supported to return to this area in a planned way' (Homeless Link, 2014, p. 3).

https://doi.org/10.1017/S1744552322000015 Published online by Cambridge University Press

records was another way to facilitate their deportation: 'Having information on convictions outside the UK can help determine whether an EU national who is sleeping rough can and should be removed from the UK within the confines of the European Council Directive 2004/38/EC.'[12] Consequently, for members of the LMRSG, it was important for frontline staff to be aware and make use of police and ICE access to criminal-record information, and even to include ICE officers on rough-sleeping patrols. Thames Reach and St Mungo's were to provide the intelligence upon which immigration enforcement action was organised (Demars, 2017). There are hints here of 'Operation Nexus', the Home Office policy to embed immigration officers in police custody suites 'in a bid to identify foreign national offenders more swiftly and arrange their detention pending removal from the UK' (Parmar, 2018, p. 112). Such 'partnerships' are constituted as more effective in achieving Home Office deportation aims.

In 2017, *The Guardian* reported that the Home Office put pressure on the GLA to attain access to the NPO-run database Combined Homelessness and Information Network (CHAIN) (Townsend, 2017). Containing information from rough sleepers, including nationality, CHAIN profiles rough sleepers and their needs, with the aim of developing local, strategic, 'joined-up' and practical responses to vulnerable and marginalised people. Material is gathered by NPO practitioners during outreach work, through which frontline practitioners working for homelessness organisations in a supportive role interact with homeless people in their current living context, from temporary accommodation to public spaces. The ability to garner information can be attributed to trusted, grassroots relationships between local practitioners and beneficiaries, thus constituting a unique tool of data-driven surveillance for the governance of socially marginalised groups (see e.g. Clarke *et al.*, 2021; Cooper *et al.*, 2016).

According to Townsend (2017), the Home Office achieved access to CHAIN for six months – a practice that stopped once contributing NPOs came to understand Home Office involvement. However, during that timeframe, there was a marked increase in the deportation and forced return of EU citizens: a 41 per cent increase in the number of EU nationals detained compared with the second quarter when officials did not have access to the CHAIN map, a 42 per cent increase in the number of CEE nationals detained and an increase in the number of enforced returns of EU citizens by 8 per cent, with a 9 per cent rise for CEE nationals (Townsend, 2017).

In 2019, *The Guardian* reported that St Mungo's admitted to sharing basic information about individuals with the Home Office without their consent between 2010 and 2016. Taylor (2019) notes that when policy was introduced in 2016, which framed rough sleeping in itself as a breach of EU rules, St Mungo's agreed that information would no longer be shared without consent. However, following an internal review, St Mungo's apologised in light of findings that one of eighteen outreach teams continued to share information with the Home Office for a seven-month period across 2016–2017. This information sharing was described as a mistake and attributed to an organisational procedure problem (St Mungo's, 2019), but events elsewhere demonstrated a troubling pattern of institutional behaviour. For example, Taylor (2018a) previously reported that an FOI request to London local authority Brent revealed that St Mungo's was sharing information with the Home Office (events disputed by the NPO).

It should be noted that there was evidence of Home Office–NPO collaboration beyond London-based operations and noted organisations. Taylor and Busby (2019), for instance, reported that Home Office immigration surgeries (i.e. drop-in sessions for legal advice) were being hosted by local support services and places of worship (e.g. the Salvation Army, a Chinese community support centre, Sikh gurdwaras), justified on the basis that surgeries help homeless people to regularise their status and, in turn, secure entitlement to statutory resources. Critics nonetheless argued that such arrangements demonstrate how deeply NPOs are compromised, and the risk this poses to vulnerable and racialised people. For example, in a Home Office surgery, homeless non-UK nationals may end up revealing sensitive and personal information to state practitioners rather than an

[12]The 'confines' of European Council Directive 2004/38/EC are important here as Art. 27(2) of the Directive specifies that prior criminal convictions on their own are not sufficient grounds to justify restrictions on the right of entry or residence (see e.g. Mantu *et al.*, 2021).

https://doi.org/10.1017/S1744552322000015 Published online by Cambridge University Press

independent legal adviser or advocating support worker, leaving them open to deportation (Taylor and Busby, 2019).

Interestingly, the public controversy around St Mungo's and Thames Reach's collaboration with the Home Office and the St Mungo's 2019 review report has tended not to mention their foray into the London Homeless Social Impact Bond (SIB)[13] in the early 2010s (but see e.g. Picton, 2018). As Cooper *et al.* (2016, p. 71) detail in relation to the SIB awarded to St Mungo's for £2.5 million in 2012, the third performance metric payment was '[s]upporting clients into sustained reconnection to a country where they enjoy local connections', which was measured by '[c]onfirmed reconnection to a destination outside of the UK with no bedded down street contact in London in the following six months'. As this example of the London Homeless SIB indicates, both St Mungo's and Thames Reach have more extensive histories of involvement with deportation practice than at first glance. As one journalist put it: 'St Mungo's has been working on the frontline of an increasingly hostile immigration policy' (Picton, 2018). It is therefore worth examining why NPOs like St Mungo's would be involved in such work for and with the state.

3.2 Justifications and rationales

Although the case of immigration surgeries demonstrates a broader pattern of state–NPO collaboration, St Mungo's has remained central to intense media scrutiny. As a result, right-of-reply responses provide some insight as to the organisation's rationale for its activity, as does St Mungo's (2019) review of its work with Home Office ICE teams. Petra Salva, Director of Rough Sleepers, Ex-Offenders and Migrant Services, acknowledged: 'I get why [collaboration] can be seen as strange and unpopular for some people' (Taylor, 2018b). Yet, the approach to collaborating with Home Office ICE teams was argued to be 'an extension of the "assertive outreach" model that had become *established good practice* over the previous decade', and thus 'a *proactive tool* as there was time to engage and support a change in behaviour before the threat of any enforcement action became a reality' (St Mungo's, 2019, p. 4, emphases added).

More generally, responses refer to homelessness organisations operating in a 'difficult climate', recalling not just the lack of statutory entitlement to resources amongst non-UK nationals, but also draconian cuts to NPO funding following fiscal retrenchment after the 2008 financial crash and politics of austerity. In this sense, homelessness NPOs already operating 'at the margins' of social policy were, themselves, further marginalised. Beyond fiscal constraints, risk management and containment feature prominently, as demonstrated by St Mungo's Chief Executive Howard Sinclair:

> 'The reality is that under current UK legislation, there are vulnerable people that are not eligible for support or housing and as a result are left destitute on the streets. When returning home is the only option for a vulnerable individual sleeping rough, we have to ask ourselves what would happen if we didn't get involved. The stark reality is that without any intervention people would simply deteriorate on our streets.' (Quoted in Taylor, 2017b)

Working with enforcement agencies among other organisations was thus justifiable '[g]iven the known dangers of rough sleeping' and because collaboration was as a long-standing practice (St Mungo's, 2019, p. 9).

Taken together, comments from Salva and Sinclair and the St Mungo's report present a rather benign and pragmatic construction of non-UK national rough sleepers. The 'problem' is ineligibility for statutory resources, which results in increases in rough sleeping and the attendant risk of harm. The solution, then, is 'supported reconnection' – or deportation. The framing of the solution constructs St Mungo's as central to rough sleepers' survival in ways that belie questions about the

[13]In line with the marketisation of social policy responses discussed in more detail below, SIBs 'are intended to make government funding of social services contingent on the achievement of contractual performance measures that are attached to named individuals' (Cooper *et al.*, 2016, p. 63).

https://doi.org/10.1017/S1744552322000015 Published online by Cambridge University Press

accountability of the organisation as an NPO, as well as their complicity in enacting oppressive and racialised policy (Taylor and Busby, 2019). In its review report, St Mungo's (2019, p. 11) states that 'In fulfilling our mission St Mungo's often chooses to work with people or in situations that others refuse. This is reflected in our organisational risk appetite regarding service delivery as signed off by [St Mungo's] Board'. It maintained that 'it was morally right to work alongside a threat of removal' given the dangers of rough sleeping (St Mungo's, 2019, p. 11). One of the lessons learnt was to pay greater attention in the future to the reputational risks facing the NPO if it participated in 'controversial' social policy areas (St Mungo's, 2019, p. 11). In this context, claims from St Mungo's that it maintained some independent capacity insofar as it would have given feedback to the Home Office if workers witnessed poor practice while out with ICE teams (Taylor, 2018b; St Mungo's, 2019) points to limited avenues for contesting state policy.

Despite the successful legal challenge against the government and sustained criticism of St Mungo's and the other NPOs, ongoing iterations of the EEA Administrative Removal Policy persisted that targeted non-UK national rough sleepers (Townsend, 2019). For example, the government's Rough Sleeping Support Service (RSSS), as part of immigration enforcement, claims to provide a single point of contact, giving immigration information to local authorities and charities to help them to assess rough sleepers' status and entitlements. Local authorities can (on a voluntary basis) highlight outstanding immigration cases to the service so that they can be prioritised by the Home Office. Developed as part of the 2018 Rough Sleeping Strategy, the RSSS is constructed as a productive multi-agency intervention to tackle homelessness and support rough sleepers, thus reducing their marginalisation – although it nonetheless works as a mechanism to locate deportable rough sleepers (Home Office, 2020a).

St Mungo's was again brought into Home Office controversy with media reports of secret exchanges with the government via meetings and e-mails in relation to the RSSS (Townsend, 2019). Refuting the allegations, Dominic Williamson, Executive Director of Strategy and Policy, claimed that the NPO's 'Street Legal' service, designed for rough sleepers with unresolved or complex migration issues, only acts on homeless people's consent, led by the principle that resolving a person's migration status will 'unlock entitlement to benefits and public services, thus helping them to get off the streets where they are at serious risk of harm' (Williamson, 2019). This framing recalls the logic of immigration surgeries; that is, should homeless people successfully regularise their status, they will then access statutory entitlements to social welfare services. It is consistent with the framing of NPO actions as pragmatic helping responses, with solutions narrowed to supported reconnection and deportation (see Taylor, 2017a), particularly for those deemed uncooperative.

This section has outlined a contemporary history of the development and roots of the UK's EEA Administrative Removal Policy and Home Office–NPO collaboration, which enabled the identification of non-compliant EEA rough sleepers who 'chose' to breach their free-movement rights and needed 'help' being returned 'home'. The next section conceptualises events through two interrelated debates: state–NPO relations in an era of neoliberal governance and NPO involvement in social marginalisation. These conceptual tools provide the foundation to unpack the racialised power dynamics that underpin contemporary policy towards EU rough sleepers.

4 State–NPO relations

The homelessness NPS is a productive ground for the exploration of state–NPO relations and the case-study at hand. It is involved in a range of services including temporary and supported housing, day and community centres, and mobile initiatives like 'soup runs', which comprise a complex mixture of policy and funding arrangements (Buckingham, 2012). As already noted, a central tenet of criticism towards the NPOs collaborating with the Home Office is the claim that they worked against founding principles associated with their role in advocating for the needs and experiences of vulnerable and marginalised social groups. One explanation for this collaboration is the neoliberalisation of public services over the past four decades. Broadly, neoliberalisation refers to sociocultural, political and

https://doi.org/10.1017/S1744552322000015 Published online by Cambridge University Press

economic shifts to the governance of state provision towards marketisation – changes distinctive to countries in the global Western north. Marketisation, briefly, results in a 'mixed economy' of public services (including social welfare and criminal justice), which operates under an outsourcing model. This model means that the state identifies areas of need, commissions third-sector organisations (both private and NPS) to deliver the necessary services and regulates contracted provision via audit mechanisms.

In the UK context, the outsourcing model developed from the 1980s under a Thatcherite 'new right' administration. Led by the three 'm's' of 'new public management' – marketisation, measurement and managerialism (Pollitt, 1990) – the state would fund but not deliver services: a process described by Osborne and Gaebler (1992) as 'steering not rowing'. The UK's turn towards new public management resulted in the creation of quasi-markets, understood to offer improved value for money, efficiency, superior 'customer' experience, innovation and flexibility – all framed as a deep contrast to the slow, lumbering, bureaucratic and antiquated state. The adoption of 'business' principles was conflated with a benign orientation, meaning that decision-making in the tender and commissioning of services would be pragmatic, technical and results-driven – that is, it would focus on 'what works'.

This approach has been subject to sustained academic critique. First, the promise of a 'competition state' working in 'partnership' with third-sector providers is a smaller, 'rolled-back' state (Gamble, 1988), as commissioning and audit practices enable the state to expand its reach and 'govern from afar'. The result is a disaggregated state and multilevel governance, with power diffusion through a range of non-statutory actors and entities made compliant via contract mechanisms (Bowlby and Lloyd Evans, 2011). Second, and relatedly, a less accountable 'shadow state' (Wolch, 1990) emerges, given that commissioning brings in unelected layers of public service actors and entities, thus outsourcing state risk, failure and responsibility (see also Cooper *et al.*, 2016).

A third explanation is that the more NPS agencies in particular take on public service delivery, the less they remain able to stay faithful to their origins, ethos and goals, and fulfil a civil society function to hold the state to account. Under commissioning, conceptions of what social problems are and how these may be responded to are set and evaluated by the state, with 'success' judged on the basis of pre-defined deliverables (Carmel and Harlock, 2008; Cooper *et al.*, 2016). Instrumentally, if an NPO is overly reliant on the state for financial survival, the capacity to challenge these conceptions is compromised. More conceptually, these dynamics shift the identity and consciousness of nonprofit actors and institutions (Clarke and Newman, 1997). Outsourcing processes valorise certain attributes over others, such as competition over collaboration and business over community (Kim, 2015). What it means to be a 'professional' provider is linked more to a corporatised, entrepreneurial and standardised vision (Bowlby and Lloyd Evans, 2011) as opposed to, for example, the quality of NPO–service user relationships and advocacy work (Carmel and Harlock, 2008).[14] As the case-study example in this paper shows, such relationships may become part of the appeal of NPS agencies for a state department like the Home Office, enabling a type of 'reach' to exploit for policy gain.

Moreover, NPOs' social service work can be reoriented to assist with new and ongoing social problems. Rodger (2012), for example, notes that what it means to 'care' has been professionalised. Using the example of the increasing role of the UK voluntary sector in criminal justice and 'soft-end policing', Rodger charts a trajectory that links back to legislative developments in crime and disorder and anti-social behaviour from the late 1990s, which promoted early intervention through community-safety and crime-prevention partnerships. For Rodger (2012), the role attributed to NPOs is 'social sedative' with their altruism and capacity for care exploited; that is, interventions of 'containment' (e.g. programmes to 'divert' potential criminal behaviour) are linked to social regulation and the criminalisation of everyday conduct. Subverted through state collaboration, care becomes a method of containment. The demands of a social discipline practice paradigm, rather than a social caring or welfare paradigm (described as '[m]ore signing-in and surveillance and less befriending

[14]Additionally, as Craig (2011) argues, Black and minority ethnic NPOs, along with NPOs that are explicitly focused on anti-racism, are the hardest hit by social welfare marketisation.

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and trust building'), take over in circumstances in which prevention (or crime control) is the goal of intervention (Rodger, 2012, p. 422). In short, conceptions of social problems and institutional responses remain political despite – or rather, because of – depoliticised appeals to 'what works', as defined by the state.

In recounting this set of criticisms, it is useful to also observe how successive governments have championed the NPS. Bowlby and Lloyd Evans (2011) note considerable government support for charities and volunteerism in the late 1990s under the then New Labour administration, which introduced 'The Compact' – core principles for supporting the state–NPS relationship by, for example, improving the skills base of the sector. This support was accompanied by increased popular appeal for the NPS during this era, linked to enhanced funding (e.g. via the Big Lottery Fund). Bowlby and Lloyd Evans (2011) track how, from 2010, the Conservative-led coalition's 'Big Society' agenda and Localism Act 2011 championed community empowerment and local collective action, promoting decentralised, independent and responsive local services that were volunteer-supported but market-driven. In contrast to the previous decade, these policies were accompanied by severe funding cuts under austerity.

This contemporary history provides useful contextual detail to situate the collaborating NPOs in this case-study. An organisation like St Mungo's can be understood as a 'major player' operating in a central and political location in the third sector. It is a large-scale organisation with a corporate and hierarchical structure that expanded throughout the 2000s, to then face a mixture of financial struggles alongside heightened demand for services following rough-sleeping increases. St Mungo's is also a NPO that has shown itself to be willing – and able – to adapt to the neoliberalisation of social policy through its programming and corporate model (Cooper *et al.*, 2016).

Relating to Dobson's (2019) analysis of homelessness charities, can it be argued that contemporary charities, in a context of insecurity and marginalisation borne of austerity and cutbacks, are engaging in similarly 'survivalist' behaviour? Such work constitutes a type of mutual gain: non-state agencies eliminate a social problem (i.e. rough sleeping, migrant presence) without Home Office assistance – or by helping to identify and isolate them for the Home Office. In turn, the charities may forge links with local government and the state and attendant resources: jobs, funding and, in their own proclaimed logic, help for rough sleepers.

4.1 Care, control and containment

This section has so far outlined a rather straightforward story about the NPS as 'governable terrain' under neoliberal state rationalities (Carmel and Harlock, 2008), 'converted' to the dark side away from their progressive ideals and caring orientations. However, while the conflation of the NPS with a progressive orientation, love (*caritas*[15]), care and support in contrast to the state's oppressive and punitive neoliberal rationalities, drives criticisms of the collaborating NPOs discussed herein, the uncomplicated linking of the NPS and 'good feeling' can result in less scrutiny of how care and support are practised historically and in situ (Lancione, 2014). The 'good' NPS vs. 'bad' state binary renders absent more complicated histories of social regulation and control in charitable contexts, including the involvement of the sector in practices of racialised marginalisation (Craig, 2011). Although, as Rodger (2012) highlights, the blurring of boundaries between different spheres of governance in the provision of social policy creates uncertainty about social values and roles in the care of marginalised groups, it is important to note that NPO experiences of marketisation vary, based on agency history, policy environment, size and workforce (e.g. role of volunteers), area of operation, and income types and levels. Bode's (2006) 'disorganised welfare mixes' reference the spread of arrangements at local, regional and national levels, resulting in fragmented and diverse service provision and a spectrum and blurring of organisational boundaries between state and non-state actors (Carmel and Harlock, 2008). This variation reflects how some NPOs resist state funding altogether,

[15]The traditional Latin name for altruistic love but which more prosaically can be interpreted as caring, but a sense of caring grounded in social solidarity and altruism (Rodger, 2012).

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while others may identify a fit between their strategies and those set by state commissioners, and/or maintain distinct goals in service delivery while in receipt of state funding for specific areas of provision (Buckingham, 2012). Indeed, empirical research on NPOs' experiences of audit cultures highlights explicit refusals to comply with state edicts (for a summary, see Dobson, 2016), alongside the strategic use of partnership arrangements to 'reform from the inside' (see Corcoran, 2011) and maintain organisational missions and aims (see Kim, 2015).

DeVerteuil (2017) rejects the thesis that NPOs are inevitably transformed to the will of state rationalities. Rather, he expresses concern that resistant behaviours amongst migrant third-sector organisations operate in a more short-termist and piecemeal form as opposed to a more long-term, strategic and ambitious drive for social justice and attendant provision (e.g. legal recognition, financial support, meaningful support services) – a problem that continues now under Brexit – and ongoing racialised, anti-migration sentiment. In this sense, NPOs are 'enduringly supportive of clients' (DeVerteuil, 2017, pp. 1529–1530) but less able to challenge the state over its oppressive policies. Taken together, moving beyond normative questioning about the morality and hospitality (or lack thereof) of the collaborating NPOs can enable understanding of the complex and dynamic social, political and economic contexts in which caring and charitable work is performed.

As Evans (2020) summarises, the sharp edges of homelessness policy have long been physical removal, arrest and incarceration, as enabled by the Vagrancy Act 1824 and more recently through Anti-Social Behaviour Orders (see also Weber and Bowling, 2008). Additionally, and more broadly around institutions of social control, 'race' and deportation practices and CEE citizen rough sleepers, there is a long tradition of constructing 'foreigners' as transgressive, criminal and in need of containment and expulsion. What constitutes the 'dangerous foreigner' shifts over time (Weber and Bowling, 2008). For instance, in the early nineteenth century, focus was on Irish, Jewish and Italian people, and more recently, new immigrants from the Caribbean (see Weber and Bowling, 2008) or people from CEE countries who have been racialised (see Fox *et al.*, 2012). One analysis of the deportation of rough sleepers recalls Britain's penal project of sentencing and then sending offenders to the colonies (i.e. Australia) (Beier, 2005). In this sense, the present-day deportation of non-UK national rough sleepers functions as a historical enactment within and across physical borders (see also Weber and Bowling, 2008). Another analysis of the targeting of EEA rough sleepers with deportation reflects what Aas (2014) calls 'bordered penality' in which practices of territorial exclusion are used in response to the unwanted mobility of racialised and poor non-citizens, while members ('good citizens') are ostensibly encompassed by the social safety net.

Once situated in the historical context of state–NPO relations and the contemporary moment characterised by the neoliberalisation of social policy and anti-migrant hostilities, collaboration of the London-based charities with the Home Office, while not inevitable, is understandable. This case-study shows how the social and legal control of EU rough sleepers was shaped by, and facilitated through, differing, yet complimentary, understandings of mobility rights, vulnerability and marginalisation. In particular, as a response to the 'problem' of non-UK national rough sleeping, and rough sleeping by CEE citizens especially, in London, deportation emerged as a pragmatic solution to homelessness and the lack of alternative options for marginalised non-citizens in the context of the hostile environment.

5 Conclusion

Weber and Bowling (2008, p. 356) have observed that 'those who are perceived to be "flawed consumers" or "unworthy citizens" are the least likely to find a place within the globalising neo-liberal order'. As this case-study has demonstrated, EU citizens constituted as unwanted in pre-Brexit England surfaced as particularly out of place in London and were subject to a range of strategies to identify and expel them from the country. At the time of writing, the deportation of homeless EU citizens continues post Brexit with amendments to the Immigration Rules reintroducing rough sleeping as a ground for refusing or cancelling permission to be in the country (Home Office, 2020b) – an act that

https://doi.org/10.1017/S1744552322000015 Published online by Cambridge University Press

is being resisted by over 100 homeless organisations and local charities through the Support Don't Deport campaign (see Bulman, 2021a).

The policing, detention and deportation of EU rough sleepers have punitive implications and are unevenly distributed along racialised, classed and gendered lines. Deportation, as Anderson *et al.* (2013, p. 2) observe, 'often reveals the contentious normative boundaries lying between citizens and non-citizens and within different groups of non-citizens'. In this case-study, the practice of Home Office–NPO collaboration disrupted the presumed role of homelessness charities and the assumed value of EU citizenship (in relation to British citizenship). Yet, as shown, the longer history of charitable involvement in the governance of socially marginalised and vulnerable adults yields a more complicated relationship between neoliberalisation, the NPO sector and racialised, gendered and classed forms of social control, particularly in relation to 'foreigners' who exist 'at the margins'.

This paper raises a number of questions worthy of further study, including how the deportations – as well as the conditions of deportability – enabled by the Home Office–NPO collaboration were experienced by both the deported/deportable subjects and the bureaucrats and NPO workers tasked with implementing the 2016 EEA Administrative Removal Policy. Importantly, those targeted with these sorts of exclusionary policies should not be presumed passive in the face of state power. Additionally, the case-study presented herein shows how simplistic discursive binaries of victim/villain and good/bad mobilised to make sense of the Home Office–NPO collaborations do not adequately capture the complexity and messiness that characterise deportation practices and the diverse range of actors and organisations involved in both border control and social policy for marginalised social groups under neoliberalism. As Anderson *et al.* (2013, p. 5) observe, uncomplicated 'picture[s] of goodies and baddies, victims and villains may be engaging, but [are] deeply misleading' and thus deserve further attention. We hope that this examination of deportation as a solution to the problem of rough sleeping in pre-Brexit England, as enabled by Home Office–NPO collaboration, stimulates further consideration of the shifting terrain as border control and social policy intersect, and how these intersections are enacted and resisted in diverse and multiple ways.

Conflicts of Interest. None

Acknowledgements. We thank the Special Issue editor, David Gurhham, for inviting this contribution, the participants of the Marginalisation in Law, Policy and Society workshops held in 2021, Harry Annison and Editor-in-Chief Jane Holder. We are grateful to two anonymous reviewers, Kelly Struthers Montford and Suzan Ilcan for their helpful comments on earlier drafts.

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Cite this article: Dobson R, Turnbull S (2022). In or against the state? Hospitality and hostility in homelessness charities and deportation practice. *International Journal of Law in Context* **18**, 25–40. https://doi.org/10.1017/S1744552322000015