Re/Making Immigration Policy through Practice

How Social Workers Influence What It Means to Be a Refused Asylum Seeker

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■ **ABSTRACT:** Refused asylum seekers living in the UK face hostility and legal restrictions on the basis of immigration status that limit access to statutory support, employment, and social goods. Working at a non-profit organization that offered an advice service for refused asylum seekers, I observed how the experiences of refused asylum seekers are constituted not simply by restrictions within immigration law, but rather by the ways in which laws are perceived and implemented by a wide range of actors. I argue that the legal consciousness of social workers hostile to refused asylum seekers plays an important role in making policy through practice. I show that social workers prioritized immigration enforcement over other legal obligations, thereby amplifying the meaning of immigration status and deepening the marginalization of refused asylum seekers.

■ **KEYWORDS:** advice work, bureaucrats, everyday life, hospitality, immigration status, legal consciousness, refused asylum seekers, social care

Upon the UK Border Agency's (UKBA's)¹ refusal of an asylum claim, the offer of temporary, state-sanctioned hospitality is revoked, leaving non-detained refused asylum seekers to navigate a complex landscape of hostility, disinterest, tolerance, and hospitality as they seek to meet their needs and forge what Judith Butler calls "a livable life" (2004). This article is animated by two interrelated questions: how does immigration status function in the everyday lives of refused asylum seekers, and how can insights about immigration status be used to undermine immigration status as a determinant of hostile/hospitable treatment? I argue that the meanings of immigration status are constituted not only by immigration laws and laws regulating migrants' access to social goods, but also in how status is deployed by a wide range of people whose legal consciousness shapes their ways of relating to refused asylum seekers. In this article, I use the example of interactions between social workers and refused asylum seekers seeking social care provisions—services provided by local authorities in accordance with national legislation to protect the well-being of adults and children—in London to illustrate how social workers' legal consciousness about immigration status configured the limits of hospitality, thereby making life more difficult for refused asylum seekers. Social workers used threats of deportation and the removal of children from their parents to deflect referrals, avoid conducting needs assessments, and deny refused asylum seekers' eligibility for social care. An inaccurate perception of refused asylum seekers as categorically ineligible for social care provisions rendered the meeting of their needs illegitimate, justifying gatekeeping and naturalizing poor treatment of refused asylum seekers.

Very few refused asylum seekers are eligible to receive social care provisions in the UK, and of those who are eligible, many likely do not know of their eligibility and therefore do not request support from social services. In a 2015 study, participating local authorities reported that an average of 3% of children supported by social services were refused asylum seekers (Price and Spencer 2015: 27), although this figure is likely higher in London. While contact between refused asylum seekers and social workers is relatively infrequent, the nature of such contact is of wider significance, both practical and theoretical. Refused asylum seekers only become eligible for social care provisions in moments when their situation, already precarious, has become particularly acute. Wrongly using immigration status to justify withholding social care where there is an eligible need means, in real terms, leaving children homeless or ignoring the care needs of someone with severe physical or mental health ailments, undermining the principles underlying social care legislation. Anti-migrant gatekeeping by social workers illustrates that actors outside the national government draw upon hostility towards refused asylum seekers to enact restrictions beyond those found in law, compounding the effects of being categorized as a refused asylum seeker and effectively remaking laws about immigration status and access through the practice of those laws.

The article proceeds as follows. I open with a discussion of methodology, focusing on the dilemmas of whether and how to represent a phenomenon experienced by a population at risk of deportation. Next, I move to the theoretical framework for the article with a section on hospitality and hostility, with particular attention to hostility as a way of relating to people contingent upon immigration status, and a section about the influence that frontline staff have in remaking policy through practice based upon their legal consciousness about the legitimacy of refused asylum seekers. The following section provides context for the case study, outlining the conditions faced by refused asylum seekers in the UK and the kinds of support they may receive. The next section is a case study of the practices I observed when referring refused asylum seekers to local authority social services departments to be assessed for eligibility to receive social care provisions. In the discussion, I analyze how a legal consciousness hostile to refused asylum seekers led social workers to prioritize the enforcement of restrictions against immigrants above other legal commitments, namely commitments to safeguard well-being and respect human rights. In the conclusion, I return to the original two research questions, arguing that legal consciousness shapes the practices of social workers in ways that amplify the reach of immigration status in everyday life.

Methodology

The data presented here originates from first-hand experience I gained when, from 2007 to 2011, I was employed as an advice worker for the East London Migrant Community Centre (ELMCC).² In providing specialist advice to undocumented migrants, I met and advocated on behalf of hundreds of refused asylum seekers from around the world. In this article, I outline the process of referral and advocacy using a composite case, drawing on my perspectives as witness to and participant in encounters with social workers, and as a scholar studying immigration.

Scholarship based upon experiential knowledge privileges a partial, situated, and consciously subjective lens, blurring conventional distinctions between knowing and doing, “the field” and everyday life (Haraway 1988; Katz 1994; Trauger and Fluri 2014). Such an orientation allows for new insights, as well as the opportunity to bring into view phenomena that may otherwise remain obscured (Beban and Schoenberger 2019; Hiemstra 2017; Trauger and Fluri 2014). The role of anti-migrant hostility in gatekeeping by social workers has received little scrutiny,

a silence facilitated by the nature of the interaction—it happens largely behind closed doors and is experienced by a population whose precarious status makes them unlikely to complain. Only through the breadth and depth of my contact with refused asylum seekers did the issue become apparent to me. Despite the difficulties of conducting conventional research into the issue, I agree with Nancy Hiemstra, who, citing Cho, argues that “perceived silences, containment, and invisibility of phenomena need not and should not be easily accepted by researchers, for ‘not seeing is not done innocently’” (2017: 330). In drawing upon my own experience, I am able to document gatekeeping by social workers without compromising the confidentiality of people affected. However, it also means that the individual narratives, priorities, and desires of refused asylum seekers are missing from this article. Yet there are risks to including them. The circumstances that give rise to a referral to social services are so particular to the individual that it may become difficult to relate them while maintaining anonymity. There may be other risks to revealing this information that are difficult to anticipate. “Ethnographic work can (inadvertently) expose sensitive practices of subaltern people to those who (might) use this knowledge to oppress them...M. Milagros Lopez (1992) inspires with her admonition to scholars working with subaltern groups not to render the practices of the oppressed visible to those who dominate, but to make the operations of capitalism and patriarchy more transparent to the oppressed groups” (Katz 1994: 71). Thus, this article arises out of an ethical imperative to draw attention to a very harmful manifestation of anti-migrant hostility while minimizing the risk of doing other damage. To do so, I focus on the day-to-day operations of a bureaucratic institution rather than the tactics of refused asylum seekers.

Hospitality/Hostility and the Asylum Regime

Hospitality refers to the act of playing host to a stranger, permitting that stranger to be received as a guest or friend in one’s home, city, or a state. Yet unconditional hospitality is an impossibility, for as Jacques Derrida (2000) observes, the very offer of hospitality reifies, rather than unsettles, the host/guest distinction. As long as there is a host and guest, hospitality remains conditional. The guest may be tolerated in particular places at particular times, but the limits of that tolerance are decided by people other than the guest. Nonetheless, Derrida also argues the value of a *principle* of hospitality (2005), maintaining that his critique of unconditional hospitality should not interfere with efforts to approximate “the best arrangements [dispositions], the least bad conditions, the most just legislation” (2005: 6). In this article, I use hospitality to mean Derrida’s principle of hospitality, as opposed to unconditional hospitality; in other words, ways of relating to refused asylum seekers that view their presence in the UK as legitimate, and that support their safety and well-being. Hostility towards refused asylum seekers is the opposite: quality of treatment contingent on immigration status. A hostile stance delegitimizes people—their existence, their presence, and their needs—and denies their rights. Although hostility is built into immigration law, I am most interested in forms of hostility that exceed the law, rather than those that are mandated by law, and the impacts of such hostility.

Beyond the State: The Role of Legal Consciousness

Though often seemingly coherent and “apart” from society, the actions of the institution known as the state could be better characterized as an emergent and ever-shifting product of competing and often contradictory discourses (Abrams 1988; Jones 2012; Marston 2004; Mitchell 1991).

The state is derived from efforts to imagine and create state institutions, lobby for or contest policies, interpret and implement categories, and make discretionary decisions on individual cases (Coutin 1998; Dubois 2009; Ellis 2007; Evans 2013; Forbess and James 2014; Gill et al. 2015; Jones 2012; Mountz 2010). A state-centric view of immigration status, common in scholarly literature on forced migration (Gill 2010; for an exception, see Mountz 2010), masks the role played by a broad range of people to enact state policies in everyday life. Because of the interplay between society and the state, examining the actions of individuals within everyday life can offer key insights into how policy categories function. In this article, I demonstrate the profound impact of social workers employed by local authorities who, informed by a legal consciousness hostile to migrants, reproduce and even deepen restrictions against refused asylum seekers with a need for care and safeguarding on the basis of immigration status.

Legal consciousness refers to “forms of participation and interpretation through which actors construct, sustain, reproduce, or amend the circulating (contested or hegemonic) structures of meanings concerning law” (Silbey 2005: 334). Refused asylum seekers, along with other categories of migrants, are read as bodies out of place (Chávez 2010; Cresswell 1996; Hyndman and Giles 2011; Mountz 2011), a disruption to the sovereign order, who can, and perhaps must be, excluded. Thus, as elaborated in detail below, the rights and entitlements of refused asylum seekers are severely curtailed by law. These laws arise from hostility towards refused asylum seekers but also contribute to that hostility. As Gill Valentine and Catherine Harris (2016: 917) observe, ideologies can be inscribed into law and subsequently reinforced by laws, such that laws and everyday life are mutually constituted. Some social workers translated their legal consciousness about hostility towards migrants, including refused asylum seekers, into practices that amplified their exclusion.

The legal consciousness literature often focuses primarily upon the interpretive legal frameworks of ordinary people as opposed to those of bureaucrats and frontline staff (Ewick and Silbey 1992; Merry 1990; Nielsen 2000; for an exception, see Richards 2015). Susan Silbey (2005) has called for further work on legal consciousness in the context of institutional practices. This line of enquiry is productive for teasing out the idiosyncratic outcomes for refused asylum seekers seeking social care, and more broadly for illuminating entrenchment of the state in social relations. I use legal consciousness to explain the particularities of the gap I observed between policies about provision of social care to migrants written into law and what was practiced on the ground by social workers. This gap was the space for action, in which social workers interpreted and implemented myriad acts of complex legislation with overlapping remit that often fit together only poorly, and in which advocates championed alternative interpretations and prioritizations to challenge adverse decisions.

Policy changes have transformed the practice of social work in recent decades, leading scholars to debate the extent to which street-level bureaucrats such as social workers continue to be able to exercise discretion in decision-making (Ellis 2007, 2011; Evans 2011, 2013; Lipsky 1980; Silbey 2005). Prescriptive procedures, standardization of services, and targets have had the unintended consequence of limiting the ability of social workers to remain people-centered (Ellis 2011; Evans 2013; Munro 2011; Lipsky 1980). A lack of statutory guidance for local authorities on how to approach work with migrants complicates matters further (Price and Spencer 2015). Additionally, legislative changes have increasingly drawn social workers, among others, into policing immigration status and migrants’ access to social goods in the UK (Forbess and James 2014; Humphries 2004; Ottosdottir and Evans 2014). While acknowledging the multiple and contradictory pressures facing social workers, I maintain that the case study presented here indicates the profound influence of legal consciousness upon the practice of social work with refused asylum seekers and the detrimental impacts thereof. Firstly, the extent to which hostility

towards migrants is a personally held belief or encouraged by the institutional culture in particular local authorities does not alter the presence of hostility towards migrants within social services departments. Regardless of the source of the hostility, refused asylum seekers seeking social care face restrictions that exceed the restrictions required by law in ways that complicate notions of immigration status as determined by the state and enforced by the UKBA. Secondly, as the case study and discussion make clear, in my experience a legal consciousness hostile to refused asylum seekers was manifested not only in decision-making, but in the ways in which social workers related to my clients during their interactions.

Enforced Destitution of Refused Asylum Seekers and Remedies

Following the refusal of an asylum claim in the UK, people are evicted from their provided accommodation, directed to make arrangements to leave the country, and required to sign on regularly at a UKBA contact center until their departure. In 2010, an estimated 500,000 refused asylum seekers continued to live in the UK following refusal of an asylum claim (British Red Cross 2010), often because they feared for their safety if they were to return to their countries of origin (Refugee Council 2012; Reynolds 2010). Refused asylum seekers face severe legal restrictions on their livelihood practices, precluding access to employment, mainstream benefits, and asylum support, making it very difficult for them to meet their basic needs. Most receive no statutory support whatsoever (Refugee Council 2012), while some receive housing and food vouchers under Section 4 support, described in more detail below. Very few are eligible for housing, money, or services through the social services departments of local authorities. A British Red Cross report (2010) notes: “Giving food to destitute asylum seekers here [in the UK] is not very different from handing out food from the back of lorries in the Sudan. The humanitarian need is the same.”

A study of refused asylum seekers in Leeds shows that approximately half stayed with family or friends, a quarter slept outside, and small numbers reported sleeping in an emergency night shelter, a place of worship, or a bus shelter. Even those housed by friends or family risked abuse, exploitative living and working conditions, or being unexpectedly locked out (Lewis 2007). I encountered similar circumstances among refused asylum seekers in London. Few long-term places in homeless shelters were available for people with no recourse to public funds (NRPF).³ ELMCC advice workers could help connect refused asylum seekers to food banks, clothing donations, and primary health care, but it was uncommon to find housing or substantial long-term financial support outside statutory support. Thus, the most effective way to achieve some degree of security for our clients was to either identify a form of statutory support for which they were eligible or attempt to change their circumstances in order to make them eligible for statutory support. Normally this meant applying for Section 4 support, but in some cases social care provisions were more appropriate, either in terms of eligibility criteria or the particular needs presented. In the remainder of this section, I elaborate upon the eligibility criteria for each of these two forms of support, as well as the conditions associated with them.⁴

Eligibility for Section 4 support arises in specific circumstances: when a refused asylum seeker appeals the adverse decision on their asylum claim, submits a fresh asylum claim based on new evidence, cooperates with efforts to return them to their country of origin, or cannot be returned for a documented reason (UK Visas and Immigration 2014). Section 4 support provides accommodation and money for food, alleviating homelessness and absolute destitution. Nonetheless, housing conditions are often poor compared to mainstream social housing, and levels of financial support are low. Refused asylum seekers are dispersed throughout the UK with no choice in region of accommodation. Most dispersal areas are small cities in the north,

deprived regions with little diversity and few service providers with specialist knowledge in supporting forced migrants (Fell and Fell 2014; Stewart 2012). Dispersed refused asylum seekers have been targeted for harassment and violence on the basis of their ethnicity and immigration status (Athwal 2007). Dispersal cuts refused asylum seekers off from their existing social networks and support services (Chantler 2012; Ottosdottir and Evans 2014; Stewart 2012). Single recipients and small families are frequently housed with other refused asylum seekers, but sometimes housemates lack a common language and cannot communicate with one another. Financial support under Section 4 is minimal and provided in the form of a voucher or payment card rather than cash, constraining their ability to choose how best to utilize the assistance for their own needs. In 2012, a single adult refused asylum seeker on Section 4 support received half the funds of a single adult citizen in receipt of the mainstream unemployment benefit, Jobseeker's Allowance—£35.29/week compared to £71.00/week (Rightsnet 2012; UK Border Agency 2012)—making it difficult to afford expensive necessities such as shoes and winter coats. Lack of access to cash prevents refused asylum seekers in receipt of Section 4 support from buying items such as tickets for public transport or phone cards.

A very small number of refused asylum seekers receive social care provisions. Social care refers to services provided to ensure the safety and well-being of people who cannot safely meet those needs for themselves, usually due to age (normally meaning elderly people or children), disability, or poor physical or mental health. Social care provisions have the power to provide accommodation, for example transitional housing for people who had been hospitalized to prevent self-harm or housing to safeguard the well-being of children. Jonathan Price and Sarah Spencer's research finds that, within children's services departments, the "overwhelming need at point of referral to the local authority is for accommodation" to protect children from destitution and homelessness (2015: 57).

Most refused asylum seekers are ineligible on the basis of their immigration status for social care provisions. Schedule 3 to the National Immigration Asylum Act 2002 (hereafter called Schedule 3) precludes most migrants, including refused asylum seekers, from receiving social care (No Recourse to Public Funds Network 2016, 2017). However, Schedule 3 also explicitly states that the exclusion of migrants does not apply to children or in cases where a failure to provide care would breach a person's rights under the Human Rights Act 1998 (No Recourse to Public Funds Network 2016, 2017). When advocating on behalf of a client for their eligibility to receive social care, I emphasized the reasons the client fell under the exceptions to Schedule 3 because that was the issue where the assessments of social workers and my own interpretation of eligibility were most likely to diverge.

The eligibility for social care is significantly narrower, requiring both a need for care and an exception to Schedule 3 exclusions from providing care to migrants. Despite the narrower criteria, some refused asylum seekers are eligible for social care but not Section 4 support, and some are potentially eligible for both, although can only receive one or the other. Social care provisions offer advantages compared to Section 4 support. In addition to the power to provide accommodation and money, social care may include services, such as assistance with nutrition, personal hygiene, housecleaning, and support for the children of a person needing care. People supported by local authorities in London were typically housed in or near London, helping them to keep their social and practical support networks intact. The No Recourse to Public Funds Network suggests that "local authorities may be in a better position to provide accommodation-related support to vulnerable people than the UK Border Agency" (No Recourse to Public Funds Network 2010: 1).

In spite of the potential advantages of social care to support refused asylum seekers, there are also risks to migrants in even requesting social care. Contact with social services increases

the visibility of migrants to the UKBA because the National Immigration Asylum Act 2002 (NIA 2002) requires local authorities “*without* any request from the Home Office, to report on their own initiative any failed asylum seeker or anyone they consider to be here unlawfully and who tries to claim community care provision” (Humphries 2004: 102, emphasis in the original). Furthermore, if there is, in the eyes of the local authority or UKBA, no barrier to return, social services departments can discharge their duty to a refused asylum seeker in their catchment area by offering a plane ticket home, on the basis that the vulnerable person ought to meet their needs in that place rather than in the UK.

In summary, referrals for social care provisions were at times a useful tool in constructing a plan to support clients whose physical or mental health was poor, or whose children were endangered by destitution linked to immigration status. However, it was only reasonable and safe to make a referral to social services for support in cases of clients who were eligible (meaning they needed services to safeguard their well-being due to disability or poor health, or in the case of children due to destitution or homelessness); where a failure to provide support would violate their human rights; *and* if there was an insurmountable barrier to removing them, such that bringing themselves to the attention of the local authority would not pose a risk. In the next section, I discuss the role of gatekeeping in the process of assessing requests for social care provisions.

Case Study of Social Workers as Gatekeepers to Assessments and Social Care

Through direct interactions with recipients and potential recipients of care and decision-making on various aspects of individual cases, social workers serve as gatekeepers to social care provisions. When cases are brought to the attention of local authorities, social workers conduct assessments on behalf of the local authority to determine whether there was a care need, whether the individual or family is eligible to receive care, and whether social services has a duty to meet that need. I show that social workers in London too often avoided conducting assessments of and supporting refused asylum seekers who had a potential need for social care provisions on the basis of legal consciousness about immigration status, resulting in uneven access to social care and the protection needs of vulnerable individuals and families going unmet. I begin by explaining how referrals and assessments should proceed before detailing what I encountered in advocating for clients and the role of advocacy in trying to overcome barriers to accessing care.

The threshold to trigger assessment of a case is quite low. For example, the duty to assess adults in accordance with the Care Act 2014 has been summarized as follows: “Where there is evidence of a *possible* health and/or social care need, the local authority will be required to undertake an assessment, *even if it is suspected that the adult may not have needs which meet the eligibility criteria*” (emphasis added) (No Recourse to Public Funds Network 2016: 20). As part of the assessment, the social worker should gather information related to issues such as the individual’s care needs, immigration status, availability of and eligibility for other forms of support, whether other forms of support would meet the person’s care needs, the existence of a barrier to returning to their home country (in the case of migrants), and the impact upon the person’s human rights if no care is provided. The decision should be communicated in writing to the person in need and to the referral agency, if there is one.

Throughout my four years as an advice worker, I referred many clients with no recourse to public funds, among them several refused asylum seekers, to London local authorities including Hackney, Lewisham, Newham, and Tower Hamlets. Before making and following up on a

referral, I anticipated the possible outcomes of the assessment. I paid particular attention to two parts of the referral: firstly, the risk of removal if the local authority were to contact the UKBA about the case. In cases where there was a possibility of removal and clients feared return to their home country, I recommended against seeking social care. Secondly, I evaluated how the individual's immigration status affected their eligibility to receive social care. In my referral letters, I outlined the circumstances and needs of the individual or family and why Schedule 3 exclusions did not apply to them, which, in my cases, was either because the case involved children or because a failure to provide support would amount to a breach in their human rights.

In spite of the appearance of a relatively straightforward process—receive referral, gather information to conduct assessment, reach decision, communicate outcome to relevant parties—I never witnessed a referral that followed this formula. Furthermore, I was never able to obtain social care provisions through my advocacy alone. In each instance, my clients had to first be refused and then challenge that refusal with the help of a community care solicitor⁵ before receiving care. The experience of referrals could be characterized as some combination of adversarial, rude, dismissive, and threatening. Specifically, social workers used statements about immigration status to either deflect referrals without conducting an assessment or to refuse care following an assessment, sometimes both. When trying to avoid conducting an assessment, social workers told my clients that being assessed was not worthwhile because they were ineligible for care and were putting any pending immigration application, and indeed their very presence in the UK, at risk. Common statements included: “If we conduct an assessment, we will inform the UKBA and you could be removed from the country” and “If you have an application for leave to remain⁶ pending, your request for social services could cause that application to be refused.” Yet, prior to conducting an assessment, the social workers did not have enough information to determine whether the person was eligible for social care provisions and whether the person was subject to removal. This suggests that hostility towards refused asylum seekers interfered with social workers' engagement in the assessment process, and led them to rely on legal consciousness about excluding refused asylum seekers rather than on the law. Refusals to conduct assessments for migrants with NRPF has also been documented by Sundari Anitha (2010).

Threatening comments often continued during the assessment interview, making the assessment very frightening for clients. Decisions about assessments were often handed down verbally, rather than in writing, blurring the line between the social worker's opinion and a formal decision. In the case of seeking support to safeguard children, my clients were frequently told that while the local authority accepted that they had a power and duty to protect the children, the parents were ineligible for care and therefore the children's need would be met by placing them in foster care (for further examples of threatening statements by social workers, see Anitha 2010; for a recent newspaper article about threatening to take children from parents, see Bulman 2017). Social workers suggested that by withdrawing their request, parents could keep custody of their children, albeit without addressing the protection needs of the children that gave rise to the referral, laying bare the priorities at play.

The support of external advocates in challenging local authorities has been identified as a key determinant of referral outcomes for families with no recourse to public funds, such as refused asylum seekers (Price and Spencer 2015: 50). In my role, I worked to counteract the impacts of threats and poor treatment by warning clients in advance of what to expect. Nonetheless, they often found the experience frightening and upsetting, making their already precarious circumstances more unbearable. Clients with no recourse to public funds who attended assessments without an advocate often reported being “yelled at” during the encounter. Social workers seemed to speak in calmer tones when an advocate was present, so I attended appointments with clients whenever possible. I refuted threatening statements made by social workers as they

were made and continued to assert the eligibility of my clients. The purpose of my presence was largely to prevent the encounter from escalating and to minimize the harm done to clients by the assessment process itself.

In the face of anti-migrant hostility and gatekeeping, some clients, particularly parents who feared losing their children, chose to abandon the request for care rather than take the supposed risks. When clients were willing to persist to the stage of enlisting a community care solicitor, local authorities could often be compelled to provide social care, and I never encountered a case where children were taken from their parents on the basis of a request for care. But the ways in which many social workers approached contact with refused asylum seekers were deeply flawed and did not provide adequate protection to refused asylum seekers in need. Rather, decisions about providing care were contingent upon immigration status in ways that exceeded the restrictions found in immigration laws. Too often, social workers were unchallenged in their withholding of assessments and social care provisions, leaving refused asylum seekers in profoundly vulnerable and unsafe situations.

Hostility, Legal Consciousness, and Social Care: Discussion

The decision to refuse social care provisions to refused asylum seekers reflects the outcome of balancing multiple, complex, and at times contradictory imperatives found in legislation and case law—in particular, to safeguard well-being, to protect human rights, and to exclude migrants. Although the exclusion of migrants at times violates the first two principles, it has become a salient feature of how some social workers approach their work with migrants. No matter how clear the need for social care was or how compellingly I argued that a failure to provide care would breach the human rights of my clients, a legal consciousness hostile to migrants took precedence. Writing about the securitization and criminalization of migrants, Mary Bosworth and Mhairi Guild write, “the very fact that someone was born outside the United Kingdom seems to trump other aspects of their identity” (2008: 710). The same logic appears at play here. In my experience, social workers repeatedly drew upon their perceptions that immigration law should be enforced above the enforcement of other laws. A study of children’s social services in Britain reached the same conclusion, suggesting that local authority responses to requests for assessment are impacted by “the perceptions of the staff in relation to the entitlement of NRPF families to support” (Price and Spencer 2015: 50).

The barriers imposed by social workers in excess of those required by law meant that only the most persistent clients and those supported by advocates were able to have their rights recognized, not necessarily those with the highest levels of need. It is unclear how many refused asylum seekers are turned away by social services, or how often they are wrongly turned away. But incorrect negative decisions based on legal consciousness hostile to refused asylum seekers leave them stranded in circumstances considered under the law to be unacceptable. During my work, I feared that unsupported clients would suffer malnutrition, attempt suicide, or that children would be left sleeping rough. Social workers who deny social care provision effectively remake policy, rendering refused asylum seekers *de facto* ineligible for social care provisions. In this manner, “subordinate officers in administrations can play a key role in defining a policy . . . Concrete public policy is *in fine* the sum of [their] decisions, practices and attitudes” (Dubois 2009: 222). The eligibility of refused asylum seekers, inscribed within law, is not recognizable as eligibility if it cannot be translated into care to safeguard the well-being of people in need.

Beyond concerns with decision-making, I also wish to draw attention to *how* social workers went about gatekeeping. Significantly, anti-migrant hostility provided not only a reason to

refuse migrants but a way to intimidate them. Comments by social workers about enforced removal, denial of pending applications to regularize status, and loss of custody of children were largely inaccurate, especially since I as an advice worker had considered these issues before making the referral and specifically set out in my referral letter why it would be incorrect to pursue such outcomes. Yet those comments were frightening because they rang so true with past experiences of refused asylum seekers with UK authorities. Having applied for asylum and been refused, then evicted from asylum support accommodation, they had come to expect to be denied rights. It often took some convincing for clients to believe that they were entitled to help, and then further convincing to get them to persist with their request for social care in the face of threats, deflections, and refusals. There was a perverse logic to the referrals and assessments as emotionally charged encounters with social workers yelling at people in need of care. Ultimately, social workers could and should have carried out assessments as per their duty and issued a written refusal in impersonal language typical of bureaucracies. If social workers were worried, for example, about accidentally triggering the removal of someone, they could have suggested—calmly—that refused asylum seekers seek advice from an immigration lawyer about risks of removal before proceeding with the assessment. The method of gatekeeping revealed a prioritization of withholding care at the expense of the well-being of refused asylum seekers.

Attention to the treatment of refused asylum seekers resonates with Tony Evans' analysis of the role social workers carve for themselves within a context of bureaucratization and increasingly rule-bound practice. Evans argues that room for social workers to exercise discretion remains, asking, "Do [social workers] seek to work in line with rules, do they work around rules reluctantly, or do they actively seek to circumvent these rules and only comply when they feel they cannot avoid them?" (2013: 740). What I encountered was social workers too willing to overlook the needs of refused asylum seekers in order to participate in immigration enforcement, not only in line with the rules but above and beyond as well.

Though my experiences with social workers were overwhelmingly negative, it is worth noting that there was a movement to improve the practice of social work with migrants with NRPF. The London Borough of Islington appointed a team of social workers dedicated to assessing and supporting migrants who came to the attention of the local authority. In 2006, they also established the No Recourse for Public Funds Network, which now advertises having 2,700 members including local authority staff. The NRPF Network develops and disseminates best practice to ensure greater consistency in decision-making and bring decisions in line with legal obligations (No Recourse to Public Funds Network n.d.). The need for an NRPF team in Islington and the NRPF Network is suggestive of the complexity of social work with refused asylum seekers and others with NRPF, as well as the level of specialized knowledge needed to operationalize best practice. As it happened, I did not have clients with eligible care needs living within Islington during my employment with ELMCC and never had the opportunity to interact with their social workers in an assessment setting. However, the motivating principles of the initiative hold promise to improve consistency and adherence to the law, reducing space for anti-migrant hostility to deepen restrictions against refused asylum seekers.

Conclusion

I have argued that immigration status is best understood by examining how it is practiced in everyday life. To do so requires looking beyond laws to attend to how the policy category of immigration status is used in interactions beyond those with UKBA representatives. For refused asylum seekers, immigration status functions as a barrier to accessing many rights, social goods,

and strategies of support. Some of these barriers are mandated by law, but some arise through a legal consciousness hostile to migrants that normalizes the withholding of rights at the expense of other principles or ways of acting. In the case of social work with refused asylum seekers, I witnessed a pattern of practice characterized by poor treatment and incorrect decisions to deny social care on the basis of immigration status. Social workers' legal consciousness about immigration status effectively re-made policies about the entitlements of refused asylum seekers in ways that made life more difficult, with tangible and troubling impacts. Only by acknowledging how state policies are enmeshed within social relations can we identify ways of disrupting hostility against refused asylum seekers and challenging the salience of immigration status in everyday life.

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■ NOTES

1. The UK Border Agency was replaced by UK Visas and Immigration in 2013. I refer to the UK Border Agency here because that was the name of the agency during the period discussed in this article.
2. The name of the non-profit organization has been changed.
3. "No recourse to public funds" is a condition applied to many migrants in the UK that means they have no right to access certain welfare benefits. Refused asylum seekers have no recourse to public funds, and nor do undocumented migrants and most people who hold limited leave to remain.
4. This article describes the criteria and conditions in the period 2007–2011. The information remains broadly similar, but there may be legislative and procedural changes to particularities.
5. A solicitor is similar to what is called in North America a lawyer, but they are not allowed to represent clients in certain higher courts.
6. Leave to remain is a term in British immigration law to refer to permission to stay—a visa.

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