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# Policing the Enforcers: The Governmentality of Interior Immigration Controls

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As border controls have spanned from the territorial border to the interior, outsourcing controls to non-state actors has become the integral technology in everyday bordering. Whilst the racialized consequences of deputizing controls have been illuminated, the governmentality and biopolitical implications of these outsourcing processes have been overlooked. This paper argues that as the architecture of migration controls has evolved, the targets of control have widened; that migration controls have transcended migrants and are also used as a way to control sovereign subjects. Taking the genealogy of UK immigration control policy as a case study, the paper shows how the processes of outsourcing immigration controls to corporations, public institutions, and the private sphere have inverted the target of control through a governmentality of coercive measures and incentive structures. I argue that in outsourcing controls to non-state actors, the taken-for-granted boundaries between who is subject to immigration control and who is not are blurred because as sovereign subjects become complicit in borderwork, they also become subject to state violence. The implication is that all subjects become subject *to* immigration control, provoking the question of who immigration controls serve and to what end.

Comme les contrôles aux frontières se sont déplacés des frontières territoriales vers l'intérieur, l'externalisation des contrôles à des acteurs non étatiques fait désormais partie intégrante de la technologie frontalière utilisée quotidiennement. Bien que les conséquences radicalisées de la délégation des contrôles aient été mises en lumière, l'on a omis les implications de gouvernementalité et de biopolitique de ces processus d'externalisation. Cet article affirme que face à l'évolution de l'architecture des contrôles migratoires, un élargissement des cibles de contrôle s'est opéré, que les contrôles migratoires ont transcendé les migrants pour être aussi utilisés comme façons de contrôler les sujets souverains. En prenant la généalogie de la politique de contrôle à l'immigration britannique comme étude de cas, l'article montre que les processus d'externalisation des contrôles à l'immigration aux entreprises, aux institutions publiques et à la sphère privée ont inversé la cible du contrôle au moyen d'une gouvernementalité de mesures de coercition et de structures d'incitation. Selon moi, en externalisant les contrôles aux acteurs non étatiques, les frontières généralement admises pour distinguer les personnes soumises à un contrôle à l'immigration des autres se brouillent. En effet, puisque les sujets souverains deviennent complices du travail aux frontières, ils font aussi l'objet de violences étatiques. De ce fait, tous les sujets sont visés par des contrôles à l'immigration. Surviennent alors les questions suivantes : qui fait l'objet d'un contrôle à l'immigration et pour quelle raison?

A medida que los controles fronterizos se han extendido desde las fronteras territoriales hasta el interior, la externalización de los controles hacia

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agentes no estatales se ha convertido en la tecnología integral en el día a día de las fronteras. Si bien se han puesto de manifiesto las consecuencias racializadas de delegar estos controles, también se han pasado por alto la gubernamentalidad y las implicaciones biopolíticas de estos procesos de externalización. Este artículo argumenta que, a medida que la arquitectura de los controles migratorios ha ido evolucionando, los objetivos de este control se han ampliado ya que los controles migratorios han trascendido a los migrantes y también se utilizan como una forma de controlar a los sujetos soberanos. El artículo demuestra, tomando como caso de estudio la genealogía de la política de control de la inmigración del Reino Unido, cómo los procesos de externalización de los controles de inmigración hacia las empresas, las instituciones públicas y la esfera privada han invertido el objetivo del control a través de una gubernamentalidad de medidas coercitivas y estructuras de incentivos. Argumentamos que, al externalizar los controles hacia agentes no estatales, los límites, que se dan por sentados, entre quién está sujeto al control de la inmigración y quién no lo está, se difuminan. Esto se debe a que, a medida que los sujetos soberanos se convierten en cómplices del trabajo fronterizo, estos también se encontrarán sujetos a la violencia estatal. La implicación es que todos los individuos quedan sujetos al control de la inmigración, lo que provoca la siguiente pregunta: ¿a quién sirven los controles de la inmigración y con qué fin?

## Introduction

The power of the state is predicated on the fictional lines of borders (Jones et al. 2022). Borders are 'a pivotal factor of modern statehood' (Garcés-Mascareñas 2015, 128), and the archetype of biopolitics, taking population management as a problematic, making it both scientific and political "as a biological problem and as power's problem" (Foucault 2003, 245). Dictating who enters the territory has long been the prerogative of the state as a principle of sovereignty, and the means to guard the border have become increasingly draconian. Alongside measures on the territorial border, the state has progressively extended its surveillance to demarcate who belongs and who does not through interior controls. The integral technology of interior bordering is the outsourcing of immigration controls to a multiplicity of actors to create everyday bordering (Yuval-Davis et al. 2019).

IPS scholars and beyond have illuminated the ban-optican governmentality of interior controls where observation is used as a disciplinary tool (Bigo 2002), the racialized effects of deputizing immigration enforcement (Yuval-Davis et al. 2019; El-Enany 2020; Griffiths and Yeo 2021), and the effective technologies of outsourcing where emotions are used as a form of power (Spathopoulous et al. 2021). Yet a key implication of this technology has been overlooked. Taking the policy genealogy of the UK's interior control policy as a case study, this paper argues that as the architecture of migration controls has evolved, the targets of control have widened; that migration controls have transcended migrants and are also used to control sovereign subjects. State legitimacy is founded on the illusion of protection from a threat to maintain the integrity of what is inside the border, and, as Bigo (2002, 2008) shows, the activities of boundary-making to construct threats stem from mundane bureaucratic activities. Bordering is the explicit and violent performance of this boundary-making between "insiders" and "outsiders" (Jones 2022), representing the "land in the sand" of differentiation (Minca and Vaughn-Williams 2012). Yet at the same time, critical border scholars have shown how the key technology of outsourcing transforms non-state actors into border guards constructing infinite sites of governmentality and creating ambiguous boundaries in borderwork

(Rumford 2012) between those who are "proxy sovereigns" (Hall 2012) and those who are not, in turn, "slashing" the line between insiders and outsiders (Salter 2012, 2008). Building on this body of work, I argue that the paradox of state legitimacy is that in outsourcing boundary-marking to non-state actors the line of differentiation is blurred, arguably removed altogether, because as sovereign subjects become complicit in borderwork, they also become subject to state violence to ensure its enforcement. The socio-political implication is that in outsourcing controls to non-state actors in the name of boundary-making, we all become subject to immigration control and potential enemies of the state (Schmitt 2008). Therefore boundary-making for legitimacy between "insiders" and "outsiders" becomes nothing more than boundary-making between the state and society, provoking the question of who immigration controls are for, and more importantly to what end.

The paper makes a twofold contribution. First, the paper makes visible the reciprocity of how agents of the state become the targets of the state, to underline how the blurring of boundaries of those subject to and working for the state are intractable, exposing the ambiguity of the citizen/subject, foreigner/citizen binary and in doing so illuminating how the target of control has widened to sovereign subjects. Secondly, the paper demonstrates how the state controls enforcers through governmentality by crafting incentives to encourage compliance but conducted within an interventionist framework where the threat of violence remains the underbelly of state power. I develop the argument by first outlining the framework of state governmentality, and showing how this mode of governmentality operates through the prism of immigration controls. The paper then provides a genealogy of this mode of governmentality in UK interior controls showing how coercive measures and incentive structures have been designed to police enforcers in three key spheres.

## How the State Governs: Coercion and Incentives

To explore the genealogy of how immigration controls have become a technology to control populations, a roadmap of how the state governs is needed. A foundational definition of the state comes from Weber (2004) who claims it is a political institution that claims the monopoly of violence. The legitimacy (the violence without repercussions) and the claim (the governed must accept the claim) create the institution and power of the state. It is not the application of violence but the institutionalizing, rationalizing, and bureaucratizing of the threat of violence that fortifies and reproduces this power. The fear of violent death "remains the currency of the political legitimacy and constituted rule of the sovereign" (Debrix and Barder 2009, 402), and therefore without the constant production of fear of violence, the power of the state sovereign loses its legitimacy.

The legitimation of the power to wield the threat of violence is not imposed in liberal democracies but is consented to by the governed in exchange for peace. The basis of the political lies in the ability of the sovereign to decide who or what the threat to peace is, and therefore who the public friends and enemies are (Schmitt 2008, 26–7). But who the state demarcates as enemies and friends is fluid and malleable; the root of sovereign power is "he who decides on the state of exception" (Agamben 1998, 11). The twinned power to both wield the threat of violence and determine the threat in the name of peace means that there is an "always possible return to the state of war in the image of a Leviathan-turned monster of war for whom chaos or destructive violence and order/preservation of the state can become one and the same" (Debrix and Barder 2009, 403). In other words, when the state can decide that its citizens are the enemy, there is no binary between order and peace and destructive violence. For if the job of the sovereign is to maintain peace for its citizens through the license to wield violence, the power to wield this threat of violence against its own citizens is limitless. It is the power of the sovereign then that

decides who the enemy is, and few if any, are potentially excluded as targets. This paradoxical logic of the sovereign—where the sovereign has the power to suspend the law in the name of the exceptional threat which it determines—leads to what Agamben (1998) calls the "exclusive inclusion" of political life, and ultimately the permanent state of exception where rights can be withdrawn at any time.

Whilst the power to define the threat and wield legitimate violence remains the foundational currency of the state, with the hegemony of neoliberalism the state has been reorganized. Under the doctrine of New Public Management (NPM)—an approach to public services that focuses on applying private sector principles and practice—the state has progressively outsourced functions to co-opt voluntary and private actors to govern on behalf of the state. As the practices of government have changed, the exercise of power has shifted from strictly direct coercion towards governmentality as a technology of political domination. Here governing abstains from direct control and instead power is channeled through the "management of possibilities and ability to structure the (possible) actions of others than the recourse to violence or coercion" (Mckee 2009, 471). The state crafts rules and rewards–incentive structures–to guide action so that governing operates not by prohibiting but by "letting things happen" (Foucault 2007, 45).

Yet far from being "hollowed out" or eroded, the result of this change in governing has been a restructured, retooled, and reconfigured state that remains interventionist but in different ways (Peck 2001; Smith 2019). Shifting governance to markets fortifies state power as decision-making is depoliticized which shields the state from accountability and in turn naturalizes unequal political outcomes (Burnham 2001). The state also has greater autonomy by governing through arms-length managerial surveillance (Flinders 2008) and becomes the authoritative architect of the rules and incentives (Vogel 2018). These soft forms of governing are not less invasive then—less direct government does not entail less governing—these are "regulated freedoms in which the subject's capacity for action is used as a political strategy to secure the ends of government" (Mckee 2009, 469–70). The state remains pivotal in defining the "problem" or threat and crafts the incentive structures used to guide behavior. This form of governing is underpinned by a process of subjectification that molds preference formation so that individuals become entrepreneurs of the self, seeking out incentives, and adhering to the rules of rationality set by the state. However, ultimately incentive structures are only functional with surveillance and punitive interventions, and therefore this mode of power is voluntary but also coercive. Coercion via the legitimate monopoly of violence, and the governmentality of incentive structures—sticks and carrots—create the matrix of techniques to govern; they are the arsenal of the state.

### Immigration Controls: Outsourcing as a Mode of Governmentality

Immigration controls are the visible and explicit demonstration of the state's legitimate use of violence, and have long been used to assert and spread political power in violent ways (Brito 2023). The threat and acts of detention and deportation are the power of state violence personified. These are tried and tested methods of control that legitimizes the state under the banner of maintaining peace for society by "protecting" the borders from those it deems as "bad" migrants and therefore a threat. The border then is "the line in the sand" of differentiation: an "exceptional space, a zone of anomie excluded from the 'normal" juridical-political space' (Minca and Vaughn-Williams 2012, 760). Immigration controls are biopolitics par excellence filtering bodies, "organising circulation, eliminating its dangerous elements, making a division between good circulation and bad circulation, and maximizing the good circulation by diminishing the bad" (Foucault, Senellart, and Ewald 2007, 18 quoted in Vigneswaran 2020, 5). These constructions of "good" and "bad" bodies are steeped in colonial history, and despite race-neutral articulations

continue to have the effect of enabling the colonial state to administer racial violence (El-Enany 2020, 27).

Biopower to organize bodies is rooted in the myth of the need to maintain the integrity of what is inside the borders. The state legitimizes this need to protect what is contained by projecting a mythical homogeneity of the nation, a myth built on constructed national identities which has been achieved "through a territorialised of its order, by cutting up borders (Bigo 2002, 67). The migrant is then cast as an outsider penetrating and infiltrating the inside and in turn framed as the public enemy. As Bigo (2002) argues, the migrant becomes a double threat, externally penetrating the territorial border and threatening the internal homogeneity of identity. This convergence of the immigrants as both an external and internal threat has created the migrant as 'par excellence the object of securitization" (Ibid, 77). The unquestioned and assumed power of legitimacy of violence of the sovereign state naturalizes and depoliticizes the use of violence at the border on the grounds of exceptional threat (Jones et al. 2022; Agamben 1998). The immigrant as a threat and the controls that the politician and bureaucrats call to deter and neutralize this threat are modes of territorial national myth; it is a technology of power that tries to recapitalize trust and state legitimacy by constructing an enemy of which only the state can save us from. States need borders, albeit fictional ones, to command power then, thus a critical part of performing state authority and the claim to legitimacy is the performance of the border (Jones et al. 2022, 3). And in an era of increasing awareness of globalized borderless connections, states are responding with increasingly violent means to display control. Immigration controls are, and always have been, a performance in the legitimate monopoly of the threat of violence to signal state power to define the enemies (Ibid).

As the border has widened from the exterior territorial lines to the interior to combat the threat of immigrant infiltrating within, borders are "no longer the shores of politics but. . .the space of the political itself" (Balibar 1998). The key technology of interior controls has been the outsourcing of borderwork to multiple actors repurposing actors as "proxy sovereigns" (Hall 2012, 10), creating a panopticon of immigration controls so that "borders are everywhere" (Balibar 1998). IPS scholars and beyond have unveiled the panopticon technologies of outsourcing immigration controls (Doty and Wheatley 2013), and the intention of this technology of governance to internalize and blur boundaries (Aliverti 2015; Spathopoulous et al. 2021). Others have highlighted the racialized effects of deputizing immigration controls, especially under Hostile Environments (Jones et al. 2017; Yuval-Davis et al. 2019; Griffiths and Yeo 2021), and how this assemblage of racial controls are underpinned, even made "immanent," by ideational colonial legacies (El-Enany 2020; Slaven 2022). This paper augments these valuable exposures of internal bordering by turning to a different dynamic; that is how the technologies of outsourcing have led to the targets of control widening. The paper now turns to the genealogy of three spheres of interior immigration controls, explicating how the state has coerced and commodified border technologies by shifting the enforcement and in turn the target of immigration controls.

### *Corporations of Control*

As neoliberal NPM reforms have swept across states, outsourcing policy implementation to corporations and education institutions has relegated these actors as complicit enforcers of the border. Conversely, this has also meant that these organizations have become one of the targets of control. The privatization of immigration controls has given rise to the "migration industry complex" (Golash-Bolza 2009) wherein through the privatization of sovereignty functions (Doty and Wheatley 2013) controls have become a tradable commodity. As states have transferred the messy and expensive business of migration controls on corporations in a trade for

the ability to recruit overseas labor, corporations have themselves become the subject of control, bound by the state's "carrots and sticks," where good enforcers are rewarded, and bad enforcers are punished. The state wields control of corporations through on the one hand commodification of controls by rewarding (or remunerating) compliant businesses, and on the other hand coercive means in the way of sanctions for those that do not comply. As the liability of migration enforcement has been redeployed to employers, the state's eye of surveillance has widened to private actors.

Outsourcing policy implementation to private actors has long been a process ideologically inspired by the idea of the superiority of service provision by private actors; a governance paradigm referred to as NPM introduced in the 1980s. The axiom of NPM is the promotion of market-based management practices to increase public spending efficiency through competitive means couched in the language of economic rationalism (Hood 1995, 94). Neoliberal migration management entails this outsourcing of implementation to private actors in a bid to outsource legal liability "and the often-unpleasant implementation of the most immediate and potentially aggressive forms of direct interaction with migrants," therefore shifting responsibility and legal burdens (Menz 2011, 118). This is advantageous as the state can transfer costs, and liability and therefore blame of policy failures onto private actors. Patterns of immigration control have shifted "up and out" (Guiraudon and Lahav 2000) yet the link between these processes and the neoliberal restructuring that underpins them remains underexplored (*see* Menz 2011; Smith 2019 for exceptions). The state has crafted incentive structures, inscribing an economic value on enforcement by converting it into a tradable commodity because recruiting internationally becomes a transaction in exchange for the liability of enforcement.

The initiation of commodifying and outsourcing of migration controls started in the 1980s with the full establishment of the Work Permit scheme. Whilst the work permit scheme had previously been established in the post-war period as an administrative means to admit relatively small numbers of economic migrants in key sectors, in the 1980s employers started to become implicated in migration controls for the first time through the requirement to prove a genuine vacancy in order to recruit international labor. The work permit system then sowed the seeds for neoliberal migration management where the utilitarian framing of economic worthiness evolved as a key-stratifying paradigm (Anderson 2013; Consterdine 2020). The work permit scheme was light on regulatory policy—there were no fines or sanctions imposed on employers for non-compliance and employers themselves were not responsible for immigration control. Nonetheless, employers were now part of the machinery of migration controls for the first time.

The regulatory apparatus came into play with the 1987 Carriers Liability Act. Against the backdrop of the hegemonic securitization of migration, the government introduced legislation that sought to place greater responsibility on carriers by providing for the imposition of fines on carriers for bringing passengers who failed to have the correct documentation. Made in the context of the so-called "asylum crisis," the Act was made to deter and restrict humanitarian movement. The Act laid the foundations for outsourcing controls to private actors, and these actors in turn becoming liable for migration enforcement. With the Act granting powers to fine the carrier £1,000 for each inadmissible passenger, this was the first sanction introduced under the mandate of immigration control. The Act was opposed by the transport and humanitarian sectors alike (Nicholson 1997). Nonetheless, the fine was doubled in 1991 and 2 years later extended to cover passengers without transit visas. Further sanctions of up to a maximum penalty of £50,000 were introduced with the Authority to Carry Scheme established under Section 124 of the Nationality, Immigration and Asylum Act 2002. Immigration enforcement was now a commodity, with the state generating revenue from offending enforcers with a culminated £180 million in recovered accrued fines between the date of implemen-

tation and 2018 (ICIBI 2021, 8). Incentive structures to enforce were introduced in 1991 with the Approved Gate Check scheme where in exchange for paying for incidental costs arising for Home Office stays on inspections of the carrier, carriers receive Approved Gate Check status and liable charges are waived.

The coercive forces of migration management into the private sphere advanced a little under a decade later with the Asylum and Immigration Act 1996, Section 8 of which made it a criminal offense for employers to hire an individual without the right to work in the United Kingdom, with a maximum fine of £5,000. The government's immediate purpose in introducing Section 8 was to deter employers from hiring irregular workers[1]. Employers were required by law to carry out-right-to work checks, including verifying biometric residence cards and appearances, transforming employers into border guards. The offense could be committed both by the corporate body and by "any director, manager, secretary or other similar officer" or any persons purporting to act as such (Stevens 1998, 137). The intention, and result, was to effectively mandate all employers to conduct immigration checks, as illustrated by the 'extraordinary lengths to which the Home Office went in order to publicize Section 8 publicizing the guidance to 1.1 million employers in December 1996 (Ibid, 139). The 1996 Act remained in force until 2006 when it was superseded with the Immigration Asylum and Nationality Act 2006. The 2006 Act replaced Section 8 but the provisions of privatization and criminal sanctions on employers remained in place, with civil penalties increasing to first £10,000 per worker, later £20,000 per worker under the 2014 Immigration Act. During an inspection of the sponsorship system, UK Visas and Immigration (UKVI) (the division of the Home Office responsible for the visa system) staff commented the increase in penalties was forcing some smaller employers out of business (ICIBI 2021, 11). The commodification of enforcement was now an established norm of state revenue, with £179,867,875 imposed penalties on offending employers from 2013 to 2019 (Ibid).

The evolution of outsourcing reached a crescendo in 2008 when Labour's points-based system (PBS) was introduced, a system that consolidated the previous 80 routes of legal entry into Britain. The new system replaced the previous work permit scheme with five tiers—Tier 1 (highly skilled), Tier 2 (skilled workers), Tier 3 (low-skilled), Tier 4 (students), and Tier 5 (temporary workers and youth mobility). Bound up in neoliberal migration management, the PBS was established both to simplify the convoluted immigration system and be responsive to labor market demands. The system laid bare the stratification of migrants according to a utilitarian framework of economic worthiness, filtering between "good" and "bad" migrants, framing migrants as both utilities and commodities, as evidenced by Tier 3 never being opened and therefore never affording those deemed as low economic utility the chance to enter (Anderson 2013; Consterdine 2020). While the PBS was largely dismantled over the succeeding administrations, the legacy has been the wholesale outsourcing of liability of immigration controls to sponsors and other private actors, and in turn, the critical technology of immigration controls wherein the sponsors become the subject of control. Policy guidance explicates this, marking the Home Office as the guardian of the border that will take compliance action against *sponsors* who "pose a risk to immigration control or not conducive to the public good" (Home Office 2023, 36).

The sponsorship component of the PBS means that in order to recruit foreign labor or international students—an economic necessity for many sectors including higher education—employers and education providers must enforce immigration controls. For example, for universities to receive a sponsorship license they must agree to monitor attendance and attainment of international students regularly. Educational establishments are required to apply for a Basic Compliance Assessment which monitors visa refusal rates and core completion of international students, and

[1] See the comments of the Home Secretary, Michael Howard, HC Debs, vol 267, col 337, 20 November 1995

is used to monitor and survey Tier 4 sponsors highlighting where "sponsors might pose a risk" (ICIBI 2021, 49). Employers sponsoring Tier 2 migrants similarly had to ensure legal compliance on admission and to some extent residency, and a Tier 2 "watchlist" holds 16,615 sponsors of which almost 900 were risk-rated as Red in 2020 (ICIBI 2021, 53). Outsourcing immigration liability to the private sphere was now ubiquitous and complicity in enforcing controls unavoidable. The choice is stark for private actors; either become immigration officers or face what the state calls a "denial of privilege" (ICIBI 2021) and be unable to recruit foreign labor and/or students, and in turn, face potentially catastrophic financial consequences.

While complicity in enforcement was coerced, border controls were also commodified through the state construction of incentives to enforce by rewarding compliance with faster visa processing. Prior to an individual application, sponsors are assessed and accordingly given different ratings that enabled or hindered their ability to recruit foreign labor. The state regards employers who are compliant with effective migration control as 'high net sponsors which tended to be large companies and corporations, thus within the sponsorship itself there remained a tiered system. Those high net sponsors were given faster access to sponsorship processing for example and would tend to be overlooked for small indiscretions in compliance. In exchange for effective liability and compliance, UKVI invited these high-net sponsors to submit renewal applications for Tier 2 visas earlier than other sponsors. Controls were further commodified with the introduction of premium sponsors where large sponsors pay £25,00 per annum for access to a dedicated bespoke UKVI service.

With this shift in liability of controls to private actors, the Home Office has transformed the meaning of immigration controls, wherein the state's role and surveillance is conversely to ensure enforcers are complying with their enforcement duties. The transformation of the role of the state has seen the expansion of technologies of immigration controls to include surveillance far beyond the scope of immigration; it includes surveillance and investigation into wide activity by empowering the Home Office to inspect if a business is genuine. The sanction could be the suspension or revocation of a sponsor license, and this could potentially terminate a business as the consequences are to loss of all sponsored workers, reputational damage and restrictions on sponsoring workers in the future. For example, in 2012 on notice of immigration violations, the London Metropolitan University lost its sponsorship license causing major financial and reputational damage. The coercive force of refusing a sponsor license, downgrading sponsorship status from an A to B rating or revoking a license is not used exceptionally; the Home Office suspended 1,178 and revoked 804 Tier 4 licenses between 2009 and 2013 (ICIBI 2021, 9). The 2016 Immigration Act also extended the Home Office's power to temporarily close businesses suspected of hiring irregular workers. And in July 2019, powers to revoke sponsorship licenses were extended for behavior unrelated to immigration, including "behavior that is inconsistent with British values" (McKinney 2019) This addendum to sponsor guidance was introduced as a mechanism to revoke a sponsorship license of a specific organization (CAGE) that the Home Secretary deemed as espousing extremist views. Thus a new discretionary power was introduced under the legitimation of a broad and subjective metric. The Home Office took on a new enforcement role quite outside the immigration remit, and the surveillance of immigration enforcement is now extended to defacto all activities of sponsors.

The genealogy of outsourcing of implementation reflects the political consensus on the neoliberal immigration management, underlined by cost shifting, blame avoidance and the alleged efficiency and flexibility gains associated with private-sector involvement. The twinned processes of outsourcing and commodifying migration controls have evolved and exposed the regulatory threat of the state to private actors if they fail to comply with enforcement. The state rewards corporations that enforce immigration controls effectively through the sponsorships scheme while punishing those that fail to enforce with fines and removal of sponsorship

status, all the while generating revenue for non-compliance of the enforcers, transforming enforcement into a commodity. The state no longer enforces immigration regulation; conversely, it acts as the enforcer of the enforcers, outsourcing controls to private actors, and coercing these actors, resulting in employers and education providers becoming a target of state immigration enforcement.

### *Institutions of the State*

The targets of immigration control have widened to public institutions–such as hospitals, welfare services and schools–and the street-level bureaucrats that comprise them. As the machinery of government evolved from ambitions of joined-up government (JUG) in the 2000s to joined-up enforcement in 2010s, through a layered incremental process of in-sourcing (assigning tasks across state institutions), more public actors have been delegated as immigration enforcers. The result–and intention–is to create border guards out of those with a duty to care, raising tension for the street-level bureaucrat with their compassion dialectic dampened, and their empathy exploited as a 'technology of access to "the truth" (Spathopoulous et al. 2021, 373). Like the private sector, these actors have become the border officers and in turn the targets of immigration enforcement. The state has constructed rewards and punishments for police enforcement through managerial surveillance. Whether the state uses coercive means or incentive structures to co-opt public actors is determined by the organizational culture of the institution—where enforcement pervades as the organizational cultural norm, controls are commodified by promoting the economic rewards of enforcement. In contrast, for institutions with caring remits that are in tension with prohibitive/enforcement cultures, economic sanctions are used to coerce compliance. Through the creeping extensions of immigration controls to all public actors, state surveillance has turned in on itself.

Alongside NPM reforms, a key governance theme since the 1990s has been JUG as a way of combatting departmentalism around crosscutting wicked issues–intractable social problems with interdependent causes–including immigration. Organizational cultures have developed in departments including frames of thinking and sets of practices that are resistant to change. The Home Office, where immigration sits, 'faces intense domestic populist pressures', and holds a remit of socially destructive issues including counterterrorism, crime and drugs "all dominated by the need for control and enforcement" (Consterdine 2017, 164). Departmental cultures have, so the argument goes, created entrenched silo mentalities that inhibit good policymaking thus JUG has been a longstanding ambition to combat departmentalism, propelled by New Labour Prime Minister Tony Blair (1997–2007). Immigration was a key area hit by the JUG reforms in the early 2000s, with Immigration Minister Barbara Roche (1999–2001) at the time imploring that "Migration policy needs to be joined up" (Roche 2000), and consequentially departments outside the Home Office gained a remit on economic immigration policy for the first time.

Yet JUG has metamorphosed away from the need for joined-up policymaking and regressed to joined-up enforcement. Cross-government enforcement and commodification of mutual interest of enforcement has been an incremental process starting from the 1999 Immigration and Asylum Act (Section 115) which rendered irregular migrants ineligible for welfare benefits introducing the controversial clause of No Recourse to Public Funds, resulting in benefit officers being responsible for checking immigration status. The 2002 Nationality, Immigration and Asylum Act similarly left vulnerable individuals in breach of any immigration law ineligible for social care. In 2004, the Overseas Visitors Hospital Charging Regulations were established, whereby all non-citizens who were not ordinarily resident were categorized as Overseas Visitors and thus subject to being charged the full cost of any National Health Service (NHS) treatment they incurred. The 2004 regulations effectively converted NHS staff into border officers.

As the center-right took hold of Office in 2010 under a mandate to reduce immigration, the pinnacle of joined-up enforcement was reached. While policymaking was centralized back to the Home Office, enforcement was inversed and spread to all departments. The key turning point for joined-up enforcement was the creation in 2012 of the inter-ministerial group initially called the Hostile Environment Working Group, later named the Inter-Ministerial Group on Migrants Access to Benefits and Public Services, comprised of a wide range of ministers from 12 government departments. This marked the birth of the Hostile Environment Policy, inspired by attribution through enforcement (Doty and Wheatley 2013) and established by then Home Secretary Theresa May (2010–2016) to make life "as difficult as possible" for ostensibly irregular but defacto all migrants (May in *The Telegraph* 2012). The objective was to bolster internal bordering further by "requiring the production of immigration papers in all walks of life" (Yeo 2020, 29), by way of deputizing immigration control to a range of actors (Griffiths and Yeo 2021), operating through neocolonialism by constructing a border in every street (El-Nany 2020, 132). The genealogy of interior controls demonstrates that the Hostile Environment policy was not a product of the Conservative administration per se, it is rather a constellation of technologies that have been incrementally built, underpinned by a patchwork of legislation over the previous decades. The working group established a number of regulations yet the key tool of joined-up enforcement was data sharing between government departments so that if a person were deemed to lack evidence of status by one branch of government, the information would be shared across the state.

The state encourages institutions to cooperate in joined-up enforcement through coercive means and rewards, but whether a stick or carrot is used is determined by the departmental culture of which the Home Office is shifting liability. In the case of departments with an enforcement remit such as the Department for Work and Pensions (DWP) and to some extent the HM Revenues and Customs (HMRC), the mutual economic gains of joined-up enforcement are promoted. Concurrent interests in detecting irregular migration statuses are a positive sum game for both the Home Office and the HMRC. For example, Operation LARI that ran between 2017 and 2018 involved immigration enforcement using HMRC data to identify Houses of Multiple Occupation with non-EU residents suspected of illegal working, which enabled the HMRC to identify tax fraud, and in turn tax revenues accrued (ICIBI 2019, 35). Thus, this joined-up enforcement, pursued by the Home Office, was achieved by crafting incentive structures to advance the HMRC's departmental interest in identifying tax fraud.

In cases where departmental cultures are analogously embedded in prohibition and policing, co-opting is motivated by economic gains and thus commodification of controls. For the DWP detecting irregular migrants can potentially unveil benefit fraud and thus there is a positive sum game of mutual interest. The shift in the welfare state from cradle to the grave to welfare to work (or workfare) has culminated in a DWP culture of enforcing, prohibiting and policing akin to the Home Office (Fletcher and Wright 2018), a culture molded and exacerbated by the dogmas of NPM economic efficiency, accountability and target driven performance. This paternalistic culture is particularly reflected in policy paradigms of welfare, where analogous to the Hostile Environment policy of surveillance amongst the community (discussed below), the DWP has similarly promoted campaigns to "spy on your neighbour" in cases of suspect benefit fraud, including a benefit fraud hotline for members of the public to incriminate others [2]. Project WALKS was designed for mutual enforcement gain. The project, which ran in June 2016, involved Immigration Compliance and Enforcement (ICE) attending DWP interviews with applicants for National Insurance Numbers (NINo). Whilst NINos are issued automatically to UK

[2] See DWP 'Campaign says no compromise in crackdown on benefit fraud: https://www.gov.uk/government/news/campaign-says-no-compromise-in-crackdown-on-benefit-fraud

nationals, foreign nationals who require NINos for work, tax, pension, and benefits purposes must apply to DWP to obtain one. The objective was that ICE could identify NINo applicants who may "be of interest to the Home Office" (ICIBI 2019, 23). Whilst the project was not a success—with limited outcomes and the enforcement cultures of immigration and DWP conversely leading to a competitive threat of job roles (ICIBI 2019, 25)—collaboration was founded on a commodification of mutual interest of enforcement.

While incentive structures are crafted when there is a mutual departmental interest, departments rooted in care remits conflict with the policing culture and are therefore coerced to enforce. Disparate from the policing ethos of the Home Office, the Department for Education's (DfE) role is to facilitate and improve young people's lives, and because of this discord between cultural objectives, cross-government working between the Home Office and DfE has been piecemeal. Where the Home Office has stood to gain from cross-government working, such as Operation BORTZ where DfE agreed to share data on migrant children with whom the Home Office had "lost contact," resulting in 238 family cases being re-issued enforcement notices (ICIBI 2019, 38) the Home Office was willing to invest resources. Yet, as the Chief Inspector of Border (ICIBI 2019, 44) noted,

> …Where DfE, or its stakeholders (schools and Local Education Authorities) stood to benefit more, as with entitlement to state-funded education and free school meals checks, the collaboration was not working as effectively…there were inconsistencies and breakdowns in communication, the fault for which appeared to lie mostly with the Home Office.

Where departmental cultures and remits clashed with the enforcement culture of the Home Office, commodifying controls have not materialized.

In lieu of incentive structures to enforce when departmental objectives and cultures clash, the Home Office has turned to more coercive measures in the form of economic sanctions. This clash of cultures is most pronounced in cross-government enforcement between the Department of Health (DoH) and the Home Office. The DoH has a caring culture with the primary remit to help their "customers." The conflict between efficiency gains and care is marked and evident in the DoH's reluctance to co-conspire with the Home Office's Hostile Environment policy (NAO 2016, 12). This is most notable in clashes over data-sharing and the controversial immigration health surcharge. The infamous MOU data sharing agreement between NHS Digital and the Home Office was signed in 2016 but quickly withdrawn in 2018 due to major concerns about the conflict of duty to care. However, in August 2023 orders were introduced for the NHS to input a "Home Office reference number" into records of "relevant patients," suggesting that data-sharing may be reinstated[3]. The Immigration Health surcharge, known as the NHS surcharge, was introduced under the Immigration (Health Charge) Order 2015, a statutory instrument made under the powers conferred by Section 38 of the 2014 Immigration Act. It is a fee levied on the majority of visa applications, purportedly to cover all health treatment and is designed to generate revenue for the government. The surcharge's universal application as part of the packages of the Hostile Environment under the 2014 Act in itself demonstrates that the Hostile Environment extends far beyond trying to make life difficult for irregular migrants, rather illustrating how both regular and irregular migrants "inhabit blurred zones, depending on the whims of [. . .] state auxiliar[ies] for full enjoyment of life, livelihood, and personal security and dignity" (Garcés-Mascareñas 2015, 137).

The surcharge has been controversial and criticized across the rights-based, medical and charity sectors. Major concerns have been highlighted regarding the clash between the duty of care of the NHS, and the implications of the surcharge, includ-

[3] Immigration status checks by the NHS: guidance for overseas patients---GOV.UK (www.gov.uk)

ing exacerbating existing barriers facing vulnerable populations. The surcharge creates a substantial administrative burden for NHS staff and the DoH's own figures suggest the cost of implementation outweighs any potential savings[4] (DoH 2013). The surcharge works to coerce the DoH to shift the liability of migration enforcement through what are effectively economic sanctions. NHS Trusts and NHS Foundation trusts have a statutory responsibility to identify chargeable overseas visitors, recover payment from those who are directly chargeable and report details of amounts to be recovered from other European Economic Area states. The defacto economic sanction comes into play because commissioners (NHS England or local clinical commissioning groups) must cover the costs if Trusts fail to do so, thus commissioners are coerced to ensure Trusts recover funds. Phase 1 also involved introducing financial incentives to encourage Trusts to identify chargeable patients and recover costs, including if Trusts record patients' European Health Insurance Card details on an online portal receiving an extra 25 percent payment from the DoH (NAO 2016, 42). Thus the surcharge also commodifies enforcement by providing financial incentives to impose immigration controls.

As policy has evolved by extending immigration control functions outside the Home Office to all government departments and their agencies, the subjects of control have become the institutions and the street-level bureaucrats that work within them. Controls and liability have been gradually shifted to public institutions through processes of creating incentive structures where the mutual departmental interests and policing cultures are identified, or through coercive means of economic sanctions in cases where departmental cultures are situated within caring remits, and where departments are in turn reticent to threaten their duty of care. The regression from JUG to joined-up enforcement and with this the slow creeping of liability of interior controls to all public institutions reveals how the state's eye has turned in on itself, where the Home Office acts as the enforcer of enforcers.

### *Policing the Private Sphere*

As immigration controls have progressively encroached into private life, the final targets of immigration controls are service providers. Key to attrition through enforcement (Doty and Wheatley 2013, 434) for irregular migrants in the Hostile Environment has been to deprive access to the essentials of housing and a bank account through the 2014 and 2016 Immigration Acts. Framed as an issue of "fairness" by former Home Secretary Theresa May, the liability of enforcement on service providers is the most dangerous aspect of the Hostile Environment, laying bare the power of the state to threaten lives and exposing the boundless targets of state coercion. As the liability of migration controls has shifted outwards, service providers must enforce immigration controls, lest they become the targets of state coercion. Service providers are subject to the coercive force of the state through the disciplinary measures of economic sanctions alongside the most punitive measures—penal punishment. Herein, the state defines all those working against immigration enforcement as the threat, drawing the binary between friends and enemies.

As the liability of immigration controls has shifted out to non-state actors, banks and building societies have taken on the policing role and in turn have become the subject of immigration enforcement. Banks and building societies were not required by law to consider the immigration status of a customer prior to 2014. However, existing legislation and guidance required banks and building societies to be satisfied regarding a customer's identity under the 2007 Money Laundering Regulation. Discussions on data sharing between the Home Office and Cifas (fraud prevention service) have been ongoing since 2006 (ICIBI 2016, 39). Since 2011 banks and building societies have been required to carry out anti-fraud checks with Cifas on prospective customers matched against individuals with no right to be in the United Kingdom. This was the precursor to the "disqualified person's list" cre-

ated to support Section 40 of the 2014 Act. The 2014 Immigration Act was built in a coercive means to prohibit banks from opening current accounts for migrants identified as being in the United Kingdom unlawfully through requirements for banks to check against a database of known immigration offenders before opening accounts. The enforcement of Section 40 of the 2014 Act was wielded through the Financial Conduct Authority which has the power to impose disciplinary measures including financial penalties. Following the Windrush scandal, in 2018 the Home Office suspended the policy. However, against the backdrop of the political focus on Small Boat Crossings in the English Channel, the policy was reinstated in 2023.

Whilst economic sanctions against banks are commonplace, coercion against private individuals for immigration misdemeanors is not. The coercion of landlords is exercised through the controversial Right to Rent (R2R) scheme; underlain by the 2014 Act, it requires landlords to check the immigration status of their tenants and prohibits them from providing services for those not living in the UK legally. The "Residential Tenancies" Chapter of the 2014 Act placed responsibility on the landlord (or sub-letter) to carry out "reasonable enquiries" that prospective tenants have the "right to rent" before agreeing to lease their premises for residential use. Verifying immigration status and documents can be a difficult and onerous task, placing landlords at risk of breaking the law due to high-quality forged documents, non-standard documents, or misunderstanding visa stipulations (Bellis and Foster 2019). The R2R scheme was initiated with a consultation document published in July 2013 entitled "Tackling illegal immigration in privately rented accommodation" (Home Office 2013), which placed parallels with the "successful" outsourcing of controls to employers since 2008.

Shifting immigration enforcement to untrained private individuals has led to deplorable effects, with landlords unsure or fearful of penalties discriminating against migrants and ethnic minorities (ICIBI 2018, 49; JCWI 2017; Simcock 2017). The High Court ruled the scheme racially discriminatory and incompatible with Articles 8 and 14 of the European Convention on Human Rights. The source of these racialized outcomes is the coercive threat to landlords. Section 23 of the 2014 Act sets out the penalties of £3,000 if a landlord is found to be in violation. Landlords and letting agents are not legally obliged to inform the Home Office where they refuse a tenancy on the basis that they are not satisfied the individual has the R2R. However, they should make a report to the Home Office if, during a follow-up check, they establish that a tenant no longer has the R2R. Failure to do so can render a landlord liable for a civil penalty or criminal prosecution. The 2016 Act extended this, bolstering coercion by introducing new criminal offenses aimed at landlords and letting agents for where they know, or reasonably suspect, illegal immigrants occupying or renting their property including the most severe penal punishment–imprisonment for up to 5 years under Section 39 of the 2016 Act. This coercive tool works as another revenue generator for the Home Office, with a culminated £329,980 in civil penalty collections in the first 5 years of the scheme (ICIBI 2021, 83). The government has been repeatedly urged to scrap the policy by both landlords and charities and to demonstrate its effectiveness as a tool to encourage immigration compliance (ICIBI 2018, 2).

The power of the coercive tool is the *threat* of imprisonment; to be coercive violence has to be anticipated (Schelling 1966). No landlord has been prosecuted for R2R violation, suggesting that the "Home Office is reluctant to enforce the policy against criminal landlords, while good landlords are fearful of the sanctions" (Simcock 2018, 13). The power of the state's coercive threat of R2R is compounded by the ambiguity and confusion of the scheme, especially for small private landlords, with the government criticized for providing incorrect information to landlords and a lack of monitoring or evaluation (ICIBI 2018, 18). The "art of coercion" is "intimidation and deterrence" (Schelling 1966, 14); the modus operandi to the R2R is uncertainty, fear and threat, as conceded by the Immigration Compliance officers

"it is more about compliance than enforcement outcomes" (ICIBI 2018, 14). After all, without threat and therefore persistent fear in the "minds and bodies of individual subjects, the awe-inspiring power of the state sovereign loses much of its apparent legitimacy" (Debrix and Barder 2009, 402).

The encroaching of migration controls into the private sphere has meant that around every corner there is a border guard and the threat of deportation (Yuval-Davis et al. 2019). Whilst the state has not enacted strictly coercive measures amongst the public, the Hostile Environment has worked to manufacture a civic responsibility amongst communities and society at large to enforce migration controls (Aliverti 2015). Former Prime Minister David Cameron (2010–2016) explicitly enlisted the public to enforce immigration controls, framing it as a duty, pleading that 'I want everyone in the country to help, including by reporting suspected illegal immigrants to our Border Agency through the Crime stoppers phone line or through the Border Agency website. Together we will reclaim our borders and send illegal immigrants home' (Cameron quoted in *BBC* 2011). Akin to the Prevent strategy and the DWP scheme to "snitch on your neighbour," everyday bordering has fractured social relations encouraging distrust and suspicion and emboldened discriminatory practices (Yuval-Davis et al. 2019). Yet what has been overlooked is how everyday bordering has made all subjects, citizens and non-citizens alike, subject to immigration control, as either friends or enemies of the state. The crimmigration and securitization of immigration have legitimized state violence against citizens in the name of immigration control and therefore the state of exception (Agamben 1998). When public resists borders, they become explicit enemies of the state. A prime example is the Stansted 15 in 2017, where 15 individuals attempted to stop a deportation flight by locking themselves around the landing gear of the plane and were convicted of terrorism-related charges under the 1990 Aviation and Maritime Security Act. The paradox of immigration is that in the moral panic of public demands *for* control, the public is becoming the subjects *of* control.

Surveillance has seeped into the private sphere; we are all border guards now. This process is symptomatic of the state casting a distinction between friends and enemies, where sovereign subjects work with or against the state by resisting or reinforcing state enforcement. Akin to precarious migrant statuses where regularity falls into irregularity with a banal bureaucratic beat, the state's deputizing bordering technology, in an instant, converts friends to enemies. As Garcés-Mascareñas (2015, 140) observed in the Malaysia case of internal bordering, when it comes to who the state sovereign protects and who it does not, "what distinguishes foreigners from citizens is a mere question of degree and purpose" (Ibid, 140).

## Conclusion

Border controls are state violence personified; they are the archetype of the state's monopoly on legitimate threats of violence. In the assemblage of bordering technologies, the state has crafted new targets, new friends and new enemies of the state. As immigration policy has evolved, permeating into the interior, colored by neoliberal migration management and NPM orthodoxies, the state has shifted the liability of immigration controls to a range of actors. This governmentality of migration controls sees the state crafting incentives and wielding coercion, to police the enforcers. The state wields violence as a threat to all through sanctions, regulatory instruments and even penal punishment. The state creates incentive structures through economic rewards for compliance. Through these carrots and sticks actors from employers, street-level bureaucrats and even private citizens are commanded to perform enforcement but in turn, they have also become the target of state enforcement, with a choice to reinforce and be rewarded or resist and be reprimanded.

This paper has traced this panopticon evolution in three key spheres: corporations, public institutions and the private sphere. Corporations have progressively been co-opted into immigration enforcement since the 1980s, wherein enforcement has become a commodity to be traded in exchange for international recruitment and where the state's power to police the enforcers has extended to scrutinizing all activity. The state's eye of surveillance has turned in on itself wherein public institutions and the street-level bureaucrats that comprise them are presented with incentives for compliant enforcement when congruent with institutional objectives, and subject to coercive measures when institutional cultures clash with prohibitive enforcement. Most alarmingly immigration controls have encroached into the private sphere where life service providers have become a key target of immigration enforcement facing punitive punishments to enforce, the public has been enlisted to border watch, and the legitimization of state violence in the name of sovereignty permits violence against any that resist borders.

The state's ability to define the threat means that this governmentality technique has changed the parameters of the target populations of immigration controls; it exposes the ambiguities and blurriness of the taken-for-granted boundaries between who is subject to control and who is not, between "insiders" and "outsiders," ultimately the fragility between "foreigner" and "citizen." The critical apparatus of security is defining anyone as a potential threat, and therefore any subject can be cast as an enemy of the state in a permanent exclusive inclusion of political life. The repercussion and implication as the border widens and borderwork is delegated to a multiplicity of subjects, is that we are all affected by, co-opted in, and most importantly subject to, immigration controls. Subjects face a choice; be a friend of the state by becoming a proxy sovereign in borderwork and in turn be subject to the state's surveillance of enforcement, or resist the border, be an enemy of the state and face punitive state violence. As the border progressively extends into the private sphere and the state's definition of what constitutes an enemy broadens edging towards authoritarianism,[4] the wide reach of this technology becomes apparent. If the audience of performative bordering is also a target of border controls, the implication is that immigration controls exist not to "control immigration," but to control all sovereign subjects.

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[4]The definition of extremism planned by the current UK government to extend to any 'undermining' of "institutions or values" (see *The Guardian* 2023).

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