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# Rebalancing the rhetoric: A normative analysis of enforcement in street homelessness policy

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## Abstract

Street homelessness policies often provoke great intensity of feeling, especially when they include elements of force. This paper considers the moral case stakeholders present for and against enforcement in street homelessness policies via a series of philosophically informed normative ‘lenses’, including paternalist, utilitarian, rights-based, contractualist, mutualist and social justice perspectives. Drawing on in-depth qualitative research in six UK cities, it highlights the disparity between the condemnatory portrayals of enforcement dominant in academic and media discourses, and the more complex and/or ambivalent views held by practitioners and homeless people ‘on the ground’. It concludes that an analytical framework that pays systematic attention to this span of normative lenses can facilitate more constructive, even if still ‘difficult’, conversations about policy interventions in this exceptionally sensitive area.

## Keywords

begging, criminalisation, enforcement, ethics, homelessness, street drinking

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## 摘要

对待街头无家可归者的政策往往会激起人们强烈的情感反应，当这些政策包含了强力执法因素时尤其如此。本文通过一系列具有哲学依据的规范性“透镜”，包括家长主义、功利主义、权利主义、契约主义、互惠主义和社会正义方面的视角，研究了支持和反对街头无家可归者政策强制执法的道德辩论利益相关者。基于对英国六个城市的深入定性研究，本文凸显了在学术和媒体话语中占主导地位的、对强制执法的谴责性描述与现场执法人员和无家可归者持有的更复杂和/或矛盾的观点之间的差异。本文的结论是，一个系统地关注这一系列规范性“透镜”的分析框架可以促进关于这一异常敏感领域的政策干预的更具建设性的对话，即使这种对话仍然将“困难重重”。

## 关键词

乞讨、入刑、执法、道德、无家可归、街头酗酒

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## Introduction

Street homelessness policies can provoke great intensity of feeling (Clifford and Piston, 2017), especially when they involve enforcement (Johnsen et al., 2018), that is, measures which force homeless people to vacate public space and/or desist from begging or street drinking (Coulon et al., 2015; Evangelista, 2013; Johnsen and Fitzpatrick, 2010; Pennay et al., 2014). The use of legal ordinances to prohibit (or ‘criminalise’) such activities (Doherty et al., 2008) and/or the increased use of ‘hostile’ or ‘defensive’ architecture which renders public spaces inaccessible to homeless people (Petty, 2016) have garnered critique across the Global North. Perhaps most controversially, the legislative and constitutional developments in Hungary permitting the penalisation of rough sleeping (Udvarhelyi, 2014) prompted challenge from United Nations Special Rapporteurs on human rights grounds (Adams, 2014). In the USA the National Law Centre on Homelessness and Poverty has called for the abandonment of punitive measures that target street homeless people on the grounds that ‘these laws are ineffective, expensive and often violate homeless persons’ civil and human rights’ (National Law Center on Homelessness and Poverty (NLCHP), 2014:

12). The European Federation of National Organisations Working with the Homeless (2012: 78) has similarly argued that what they view as a criminalisation agenda raises ‘serious questions about respect for human rights and dignity’.

Urban scholars have intervened energetically in such debates, most famously employing the ‘revanchist’ thesis (Smith, 1996) in response to concerns about the rise in anti-homeless legislation. Revanchists condemn the use of enforcement as a vengeful tendency for urban elites to displace and exclude homeless people and other disadvantaged groups (Arapoglou, 2004; Mitchell, 1997, 2018). Some academic commentaries also denounce enforcement as a denial of homeless people’s ‘right to the city’ (Duff, 2017; Mitchell and Heynen, 2009) and call for the protection of what Hennigan and Speer (2019: 918) describe as the ‘pitiful right to stay put on the street (away from services and out of jail)’. Whilst a growing number of scholars have suggested that the so-called ‘punitive turn’ in street homelessness policy has not been as one-dimensional or severe as the revanchist thesis presupposes (Clarke and Parsell, 2018; DeVerteuil et al., 2009; Stuart, 2014), and others have indicated that, in certain circumstances, forceful

interventions can disrupt patterns of harmful behaviours to the benefit of those targeted (Johnsen and Fitzpatrick, 2010), the weight of urban scholarship still tends to be strongly condemnatory. Some contributors have gone so far as to characterise enforcement interventions as ‘genocidal’ attempts to ‘eradicate’, ‘annihilate’ or ‘exterminate’ street homeless people (e.g. Amster, 2003; Mitchell, 1997). Similar sentiments can be found in mainstream media coverage, with the installation of studs (‘homeless spikes’) to prevent rough sleepers from bedding down in a number of UK cities, for example, described as ‘disgusting’ (Logan, 2014), ‘brutal’ (Borromeo, 2015), ‘cruel’ (Andreou, 2015) and ‘inhumane’ (Wells, 2015).

In amongst all this noise and fury, however, little space has been devoted to homeless people’s views on these issues, nor to the perspectives of frontline workers and other stakeholders who are closest to the reality of enforcement measures ‘on the ground’.<sup>1</sup> Arguably, a form of ‘moral grandstanding’ has taken root, with emotive rhetoric (Tosi and Warmke, 2016) taking the place of close attention to the views of those directly affected. Moral objections to enforcement are often taken to be self-evident in this literature, and the egregious consequences of enforcement for street homeless people assumed rather than evidenced.

This paper attempts to go some way to redressing this imbalance by foregrounding the measured, complex and, very often, ambivalent normative stances on enforcement taken by homeless people and other stakeholders with day-to-day familiarity with these issues. It starts from the premise that good scholarship requires systematic reflection on one’s own ethical intuitions, however powerfully felt (Singer, 2005), and that moral and political philosophy can help structure and guide this ethical endeavour by offering both transparent and robust ways of thinking about our responsibilities

and obligations to each other (Wolff, 2012).<sup>2</sup> ‘Value pluralist’ strands of analytic philosophy (Berlin, 1969; Ignatieff, 2000; Wolf, 1992) supply particularly relevant tools to help navigate this otherwise treacherous moral landscape (Harris, 2010). This pluralist tradition recognises the multiplicity of values that underpin the ‘moral foundations’ people draw upon in making ethical sense of the world around them (Haidt and Graham, 2007), and the interdependence of normative reasoning and empirical evidence in settling moral questions (Miller, 1999).

Inspired by this democratically and empirically grounded philosophical tradition, we examine the ‘moral repertoires’ drawn upon by homeless people and other relevant stakeholders in considering the ethics of enforcement. The analysis reveals six key normative ‘lenses’ that have shaped both *opposition to* and *support for* enforcement measures: paternalist, utilitarian, rights-based, contractualist, mutualist and social justice perspectives (see also Deacon, 2004). The following section provides details regarding the context and methods of the study, and subsequent sections discuss each of the moral repertoires identified. The paper ends by reflecting on the broader ethical and policy implications of these analyses, arguing that there is a stark disparity between the condemnatory portrayals of enforcement dominant in academic and media discourses, and the more complex and/or ambivalent views held by stakeholders ‘on the ground’. A core contention is that a detailed understanding of the full spectrum of ethical reasoning ‘in play’ on the part of those closest to enforcement practice will help facilitate a more constructive, and less polarising, public discourse.

## Context and methods

The UK is a particularly apposite context within which to consider these issues given

that the justifiability or otherwise of enforcement has been a subject of debate since the late 1990s, especially in England where force has been most widely pursued in responses to rough sleeping and associated 'problematic street culture' (Johnsen et al., 2014). Insights from the UK nevertheless have clear relevance to the broad range of developed countries within which analogous measures have been used or are being contemplated, including in the USA, Canada, Australasia and many parts of Europe. Specifically, England has witnessed a longstanding and, at times, bitter debate on the use of vagrancy legislation to arrest or fine people begging or sleeping rough, the deployment of Dispersal Orders to disband groups of street homeless people, or 'Anti-Social Behaviour Orders' (ASBOs) and successor measures to ban them from specified areas or activities (Johnsen and Fitzpatrick, 2010; Sanders and Albanese, 2017). Likewise, attempts to 'design out' street culture from public spaces via defensive architecture have come in for heavy criticism (Borromeo, 2015). It must be emphasised, however, that whilst experience of designing out is widespread, legal penalties (arrest, fines, imprisonment) affect a very small minority of rough sleepers in England, and the most severe of these only when an individual's actions are having a clear detrimental impact on others (Sanders and Albanese, 2017).

The empirical data drawn upon is derived from a major UK-based study assessing the efficacy and ethicality of policy interventions containing elements of behavioural conditionality.<sup>3</sup> The study encompassed a review of academic, policy/campaigning and media accounts of enforcement in street homelessness policy, together with interviews and focus groups with a subset of individuals participating in the five-year programme of research. National-level interviews were conducted with government policy-makers and campaigning/service provider agencies in the

homelessness sector ( $n = 9$ ), and local focus groups were undertaken with frontline practitioners involved in street outreach, emergency accommodation and community safety ( $n = 6$ , involving a total of  $n = 27$  individuals). Interviews were also conducted with people with experience of enforcement interventions ( $n = 55$ ), 25 of whom were re-interviewed one year later and 16 once more two years after initial interview.

Homeless interviewees with direct experience of enforcement interventions were purposively sampled from a range of support agencies in six cities across England and Scotland (Bristol, Edinburgh, Glasgow, London, Peterborough and Sheffield). They included 40 men and 15 women, the majority ( $n = 39$ ) of whom were aged 25–29 years, with three aged 18–24, 12 aged 50–64 and one over 65 (one participant did not specify their age). Practitioner focus groups were held in a subset of the same agencies, with participants purposively sampled for their direct experience of working with individuals and in neighbourhoods affected by enforcement interventions. Key informants were purposively sampled on the basis of their involvement in street homelessness policy development, and/or their public endorsement of or opposition to enforcement initiatives at the national level. Verbatim transcripts were analysed thematically with the aid of qualitative data analysis software and framework analysis employed to structure analysis of longitudinal interview data.

## Normative frameworks

The following subsections focus on six normative lenses illuminating the moral repertoires drawn upon by stakeholders in thinking about enforcement-based responses to street homelessness. These were identified and specified via an iterative dialogue between: (a) a conceptual mapping of key philosophical theories with long pedigrees in the ethical assessment of

public policy decisions (Deacon, 2004; Watts and Fitzpatrick, 2018), and (b) thematic interrogation of the empirical data described above. Specifically, empirical data are used here to explore *how* each of these influential schools of thought are deployed by those working in the homelessness sector or with direct experience of enforcement.

### *Paternalism*

The classic justification of enforcement measures, in the UK at least, is the claim that these measures are in the best interests of street homeless people themselves. Such 'paternalistic' accounts are motivated, or presented as motivated, by 'a beneficent concern for [the] welfare [of those targeted]' (Scoccia, 2008: 352). Whilst paternalistic motivations for public policy are often denigrated by commentators of both the Left and Right, recent scholarship has made the case for 'justifiable paternalism' which seeks to protect very vulnerable people from the negative consequences of their own decision-making (Parsell and Marston, 2016; see also Gregory, 2015; Watts et al., 2018).

Paternalistic concerns for the welfare of street homeless people were often central to the rationale for enforcement given by central and local government representatives interviewed and were also heavily drawn upon by those support providers who favoured the use of enforcement in certain circumstances. These interviewees emphasised the risks associated with street homelessness, citing evidence regarding susceptibility to extreme ill health, physical assault and/or premature death (see Morrison, 2009; O'Connell, 2005; Sanders and Albanese, 2016):

These are people who are highly traumatised by things in their background ... Obviously we know all of the stats around life expectancy being 47 for men, 42 for women, nine times more likely to commit suicide, I think 16 times more likely to be the victim of a violent

assault. I can't with a clean conscience say that I'm okay with that ... They need the support to find the exit and sometimes they need nudge mechanisms to do that. (Senior representative, voluntary sector organisation)

Drawing upon personal experience, a number of the homeless people, service providers and other stakeholders argued that the threat or use of force can generate a 'window of opportunity' enabling service providers to engage so-called 'service resistant' individuals:

If it wasn't for them [the police], I wouldn't be sitting here ... I was going to drink myself to death ... What's the point? I might as well just die happy ... I didn't really want any help in that sense ... If it hadn't been for those police saying ... 'No you can't sleep here ... there's a hostel down the road', I probably ... would have been dead. (Homeless person, male, 50)

I think that enforcement-based tactics are the last resort, but when you see somebody killing themselves, you know ... How often does it happen that somebody who is so on the gear [drugs] that they end up on the street and they are just begging and they're falling apart ... come out of it without enforcement support? I've seen [name of client], right, he didn't even want to talk to anybody, and he got put in prison ... He came out: 'House me'. And to this day he's not using ... I think that sometimes people need the control to be taken away from them in order to change ... (Frontline practitioner, homelessness charity)

I find that when disruption has teeth, that works really well ... I remember a very long-term drinking school ... that was too big for us to engage with. It was just not safe to approach; it was counterproductive. So it was purely an enforcement target ... And people did disperse into ... smaller drinking schools around the area, but that was much more manageable for us, and made it easier to help people. (Frontline practitioner, homelessness charity)

Equally, though, a number of stakeholders, including both service providers and

homeless people, opposed enforcement on paternalist grounds, contending that these interventions undermined – rather than served – the best interests of those targeted. Positive outcomes, such as the acceptance of accommodation or desistance from aggressive begging, were argued to be far from guaranteed, whilst the potential penalties (which might include lengthy prison sentences) could be severe:

I know that the polarised argument always goes along the lines that, for some people, a more persuasive approach to move on with sanctions works and, for those it works for, it works very well but, for those it doesn't work for, it's an absolute disaster. (Senior representative, campaigning organisation)

Opponents of enforcement offered many examples of when enforcement had 'displaced' vulnerable homeless people into locations or activities where they were at (even) greater risk of harm, or where it was harder for outreach support services to locate them:

Obviously when you're on the street ... you're going to congregate; safety in numbers and things like that ... Sometimes the police come and tell you you have to move or you're nicked. But why do we have to move? ... Especially as a woman being on the street you feel safer, obviously, when you're with people that you know ...

(Homeless person, female, 43)

It hasn't affected their drinking, but it makes them ... less likely to trust us as workers. Because they've been moved on from a different area, so it's harder for us to ... engage with them. (Frontline practitioner, homelessness charity)

### Utilitarianism

'Utilitarianism' is an influential form of moral philosophy focused on the maximisation of human 'utility' or 'welfare' – 'the greatest happiness of the greatest number' in Jeremy Bentham's famous formulation. In

modern political philosophy, 'utility' is often defined not as a psychic state of mind (happiness) but as (informed) preference-satisfaction (Goodin, 1993). In contrast to paternalism's exclusive concern with the best interests of those targeted, the utilitarian lens widens the focus to encompass the *overall* impact of enforcement on the *whole of society*.

Proponents of enforcement often deployed a utilitarian rationale, emphasising the negative impacts of rough sleeping, begging and street drinking on the wider public. As the extracts from local policy statements below illustrate, the economic damage to local business and tourism, the potential links between street culture and criminal activity, and/or evidence that these activities are intimidating to passers-by are often cited:

Extensive local consultation ... provided indisputable evidence that large 'street drinking groups or schools' ... 'turns off' public spaces for wider public use, causing areas to further deteriorate and act as a catalyst for more serious criminal activity ... Both street drinking and begging have a negative impact on the City and its otherwise positive image ... (Brighton and Hove Council, 2004: 5)

We acknowledge that when someone is in a position where they feel they have no choice but to sleep rough then it is likely something has gone wrong in their lives ... However, the disruption and problems to local residents is not reasonable and is unacceptable. Where there is a build-up of rough sleepers we know that there often follows a deterioration of acceptable behaviour in that location. Waste and detritus may start to be left on the street. (Westminster City Council, 2013: 16)

Homeless people themselves also sometimes drew on utilitarian principles in explaining their support for the use of enforcement when an individual causes demonstrable harm to the local community:

There are people that [are] homeless that leave syringes or what-not lying about. I actually

don't blame people for being angry at that. I would want somebody moved if I was living somewhere and they were urinating or whatever. (Homeless person, male, 48)

[Enforcement is] not just for their good, it's for the good of the community, isn't it? ... It isn't great for the night-time economy having lots of beggars and rough sleepers around. If, every time you go to a cash-point, someone's going to ask you for money, it puts you off going to that cash-point, doesn't it ... (Homeless person, male, 34)

As with paternalism, however, utilitarian stances were also evident in some stakeholders' opposition to, or at least reservations about, enforcement. Specifically, some interviewees took the view that it was hard to justify enforcement responses that maximised the interests of already privileged members of society (home owners and business proprietors) over the welfare of an already extremely disadvantaged group, especially if the 'disutility' being visited upon the wider community was deemed trivial:

There's this mentality of homeless people, street drinkers, people who loiter, as being unsightly, and I think they just offend people's aesthetics, and that's why members of the community complain and services get involved. And in order for the police to deliver outcomes, to show the community that they're doing something, they just move the problem ... (Frontline practitioner, homelessness charity)

### **Rights**

Commentators who are most vociferous in their opposition to enforcement often employ the language of 'rights'. Individual rights can be thought of as 'side constraints' (Dworkin, 1977) that place an ethical limit on the pursuit (e.g. through public policies) of the collective good (Kymlicka, 2002), and so stand in opposition to 'utility maximising' moral codes. Rights-based perspectives span the political spectrum from those primarily concerned with the right to 'freedom from'

state interference, to those focused on positive entitlements to social and welfare goods (Fitzpatrick et al., 2014; King, 2003).

A number of stakeholders working in the homelessness sector saw enforcement as contravening people's 'right' to sleep rough, drink on the street, or acquire money via begging, even if it harmed them, and objected to what they saw as the inappropriate imposition of (middle-class) values on street homeless people:

There's something of the free-born Englishman that you see in homeless people ... who live lives on their own terms and don't necessarily want to conform ... Sometimes those philosophical choices, while they might be in opposition to the norms, they are our prophets, they are our poets ... For some people it's what they're used to, it's a survivalist kind of life ... (Senior representative, umbrella organisation)

[Street drinking] is his choice of lifestyle. That's not for us to make a judgement call on. (Frontline practitioner, homelessness charity)

A lot of people who are begging don't claim benefits ... Okay, its tax free and all the other things, but it's their job, and who would want to sit on the street in the weather we've had basically, and beg? I wouldn't. But it is the individual's choice ... I think they're making an honest living ... they're not shoplifting, they're not pick-pocketing. (Frontline practitioner, homelessness charity)

However, this rights-based moral reasoning was seldom invoked by homeless people themselves in their consideration of the ethics of enforcement. It was also called into question by key informants and practitioners who pointed out that the very idea of 'choice' or 'free will' can be a mirage in circumstances where addictions or other issues severely impair individuals' cognitive capacity to comprehend the consequences of their actions:

For a lot of people that are caught up in a street lifestyle ... that have mental health



issues or addictions that really mean there's a question mark over their capacity to make appropriate choices about their future ... Actually the system needs to be ambitious for them until they're able to be ambitious for themselves again ... I think if I can be convinced that somebody, in a very lucid and informed way, has made a conscious choice to live a particular lifestyle I think I can respect that. But the vast majority of people that I've worked with over the years are not in that category. (Senior representative, voluntary sector organisation)

Capacity around addictive behaviour is a really grey, sketchy area. Essentially [if allowing a street drinker to continue drinking in public places] we'd be complicit in allowing, potentially, people that we're meant to have some responsibility for to continue to engage in behaviour that they may not actually be able to control. I mean, that's addiction, isn't it? Loss of control. To the point of death. So you need to find a balance. (Frontline practitioner, homelessness charity)

### **Contractualism**

'Contractualism' imagines the relationship between the citizen and the state as based on reciprocal obligations, seeing the state as obliged to furnish citizens with certain kinds of assistance and the beneficiaries, in return, obliged to 'give something back' (Paz-Fuchs, 2008). As Deacon (2004: 915) pithily puts it: 'If the government keeps its part of the bargain, then the claimants should keep theirs.' The emphasis in these contractualist accounts tends to be on citizens' responsibilities rather than on their rights, and for street homeless people this generally pertains to their having a moral obligation to accept the (tax-payer funded) help on offer.

Contractualist principles were clearly evident in many national and local policy documents endorsing enforcement. The following examples are illustrative:

There are places for rough sleepers to sleep at night; there is support and treatment available for their health needs ... and there are benefits available to pay for their food and rent. The reality is that the majority of people who beg are doing so to sustain a drug habit, and are often caught up in much more serious crime. (Home Office, 2003: 47)

We will align our services to ensure there is an effective and resolute response to rough sleeping hotspot locations in Westminster. We will continue to commission services to ensure that everyone has a route off the streets. People who are sleeping rough will, quite simply, not have a good reason to be there. (Westminster City Council, 2013: 16)

Contractualist forms of reasoning were also prominent in the opposition to enforcement. Service providers and campaigning bodies in particular saw the use of force as illegitimate when the support 'offer' was inadequate. From this perspective, homeless people should not be penalised for failing to move into accommodation and/or engage with substance misuse treatment programmes if these are inaccessible or of poor quality:

It's not good enough to say that they have all the services available and so the next step must be to penalise and criminalise them. Our starting point is, well, what are the services? Have they been effective? Are we dealing with people who are service resistant or dealing with services that are ineffective? (Senior representative, campaigning organisation)

There's a chronic shortage of temporary accommodation in [name of city] ... When somebody's on the phone at 11pm and there just is physically not the bed to put them in ... That has a big impact on us finding the route off the street for a lot of people. (Senior representative, homelessness charity)

Likewise, the difficulties that homeless interviewees reported in accessing temporary

accommodation and their fears about using it based on previous experiences, indicated that it could not be assumed that the Government's side of any imagined 'bargain' was in fact being honoured:

I've been visiting a hostel that I was referred to every day for the past seven or eight days. And they told me there's no vacancy ... But there are those who are trying to get back up and finding it really difficult, so when you have this threat of arresting them, it's not fair. (Homeless person, male, 43)

These people [outreach team] sent me to ... a hostel but the conditions there were terrible and I was better off sleeping outside. When I saw it I was there for ten minutes and it was disgusting ... I left. (Homeless person, male, 31)

### *Mutualism*

According to the 'mutualist' normative perspective, people have responsibilities towards each other that arise *independently* of any claims that they may make on the state (Etzioni, 1998; Kymlicka, 2002). These moral obligations are said to be rooted in principles of mutual respect and concern for others simply as fellow human beings (Selznick, 1998: 63). There are Marxist forms (Dwyer, 2010), but as a moral code mutualism is often associated with nostalgia for traditional (conservative) values and sources of authority, such as the family, community and church (Phillips, 1993).

One specific strand of mutualism that appears to have strong popular appeal in the UK (O'Neil et al., 2017) relates to theological principles that stress human interdependence and moral obligations to care for the 'needy other' (Johnsen, 2014). Drawing explicitly on this perspective, a number of faith-based service providers opposed enforcement on the grounds that it compromised society's ability to care for homeless people in a manner consistent with their innate dignity and worth:

I think our stance philosophically and theologically, would be that ... we have to care for each other as an obligation that we have as human beings ... If someone is in need that's my problem as a Christian, as a member of society ... We're all interdependent, we're all needy ... That mutuality requires a response, but it's that person's own choice, it's not forced on them ... (Senior representative, umbrella organisation)

On the other hand, some interviewees supported enforcement on the mutualist ground that, as a fellow human being, they simply could not 'walk on by' whilst someone lived such a harmful lifestyle (see also the paternalist discussion above):

There will be those who will say that they're making a lifestyle choice and that by urging them to move inside we are misguidedly foisting our values on them ... [But] I recall once trying to explain the doctrine of lifestyle choice to the children of a rough sleeper at his funeral. They listened politely, but I could guess what they were thinking and that was that if it had been your dad sleeping in that shop doorway, a greater humanity would have trumped your belief in lifestyle choice. (Senior representative, homelessness charity)

A very different twist on mutualist support for enforcement is offered by those who take the view that community standards to refrain from anti-social behaviour apply no matter how desperate one's situation. The following comment made by a local councillor regarding the conduct of a group of rough sleepers within his jurisdiction is a pertinent example:

It's tragic that in this day and age, and in a country like the UK, we still have vulnerable people living rough ... However, my sympathy for rough sleepers ends when their behaviour results in people feeling intimidated and unsafe. The people living at Montague Road car park used it like a public toilet. There is absolutely no excuse for people to behave like

animals – whatever their circumstances. (Foote, cited in Cumber, 2016)

### Social justice

The idea of ‘social justice’ pertains to fundamental questions regarding the distribution of society’s benefits and burdens, that is, ‘who should get what and why?’ Theories of social justice are diverse and employ a range of criteria in promoting a moral basis for the distribution of society’s valued goods, including need, desert and equality (Johnston, 2011; Sen, 1992). Most social justice theorists emphasise the achievement of relevant distributive outcomes, though some also focus on the independent value of procedural justice (Miller, 1999).

As noted above when discussing paternalism, a range of stakeholders endorsed the use of force in street homelessness policies as a means to address the ‘needs’ of those targeted, especially when that need was so extreme as to be life-threatening. These sorts of arguments can also be interpreted as offering a social justice-orientated defence of force, if it can be shown that enforcement interventions do *in fact* protect the welfare of street homeless people. This is an empirical question to which we return later.

But social justice-style reasoning was more often used to oppose enforcement, including by those whose social justice-related reasoning foregrounded issues of ‘desert’, and specifically the idea that enforcement unfairly penalises people for behaviour caused by factors largely outwith their control:

I don’t think it’s fair [to arrest rough sleepers] because it’s not necessarily a person’s fault that they’ve ended up that way ... I’ve got issues that I’ve dealt with that have just taken me down a certain road, which has been alcoholism. It’s led me to – through alcoholism – sleep rough. I was brought up in care, I was sexually abused ... It wasn’t an aspiration for me to be an alcoholic at school, you know, but I am. (Homeless person, male, 34)

These narratives resonate strongly with evidence demonstrating the prevalence of complex trauma and poverty, often dating back to childhood, amongst the homeless population (see, for example, Bramley and Fitzpatrick, 2018; Fitzpatrick et al., 2013).

Also, chiming with the social justice literature’s focus on ‘equality of treatment’, service providers and homeless people alike saw the discriminatory manner in which some enforcement powers are applied as unjust:

I see ... business people sitting with bottles of wine, bottles of champagne, cans of beer, now they never got asked to move. But the alcoholics that were sitting with bottles of Lambrini, bottles of cider, not shouting and that, they were asked to move. Now what’s the difference really? ... I believe everyone is equal. Sometimes in the police’s eyes some are less than others, which I don’t agree with. (Homeless person, male, 34)

### Discussion

The deployment of force in response to rough sleeping, begging and street drinking is a sensitive issue that tends to evoke highly emotive responses. Drawing upon detailed empirical work conducted in the UK, this paper has mapped the views of stakeholders with a range of viewpoints, including some (most notably homeless people) who have received little research attention to date. In so doing, it has highlighted a disparity between the pejorative rhetoric that is predominant in much academic and media discourse, and a far messier picture of competing intuitions, conflicting priorities and complex moral reasoning ‘on the ground’.

Stakeholders argued both for and against enforcement on multiple, sometimes overlapping, sometimes opposing, normative grounds. *Paternalist* reasoning is deployed to make a case for enforcement if it is believed that it can genuinely benefit those it targets, whereas *utilitarianism* broadens the focus to

enable the sum of benefits and losses to those targeted and other users of public space to be taken into account. The kind of *rights-based* reasoning employed by some stakeholders is less concerned with the consequences of enforcement, but rather emphasises its potentially illegitimate violation of people's freedom to live the lifestyles they wish to. The *contractualist* repertoire is used to defend enforcement where stakeholders see the state meeting its 'side of the bargain' in providing adequate support and accommodation options, but to oppose enforcement where this condition is not met. *Mutualist* arguments are sometimes used to justify enforcement even where such support and accommodation is not available, on the basis of community standards to refrain from anti-social behaviour that are taken to apply no matter one's circumstances. But equally they are also used to oppose enforcement on the grounds that it compromises society's ability to care for homeless people in a manner consistent with the dignity and innate worth of all human beings. *Social justice* repertoires are evident in the reasoning of those who see enforcement as unjustly punishing street homeless people for things outside their control or discriminating against them by treating them differently from other members of society who engage in similar activities.

This normative mapping approach is useful in highlighting that *all* those engaged in debates about enforcement are deploying moral arguments of some kind, drawing on some (or multiple) sort(s) of ethical reasoning. It is not that there are 'moral' and 'non-moral' positions in this debate, or that there is, for instance, a neat split – as is sometimes implied – between (conservative, self-regarding) urban authorities on the one hand and (progressive, compassionate) service providers and campaigning bodies on the other. Rather there are a wide range of ethical tools 'in play' and none emerges as dominant, albeit that some clearly have particular

traction in some contexts (e.g. contractualism within the political lexicon of 'rights and responsibilities' (Watts and Fitzpatrick, 2018)) or for specific groups (e.g. mutualism's resonance for those with a faith-orientation and many other members of the UK public (O'Neil et al., 2017)). This is complex territory, but it is nonetheless possible to identify, explore and compare these normative frameworks and to consider their defensibility.

Charting these normative perspectives is also useful in revealing that people can disagree in three quite distinct ways, which should not be conflated. First, they can reach opposing conclusions because they are drawing on different normative frameworks in their ethical reasoning. This reflects that both individuals (Graham et al., 2011) and societies (Fitzpatrick and Stephens, 2014) have different value systems, or at least balance and prioritise distinct ethical principles, commitments and forms of reasoning differently. Someone with a strong paternalistic inclination, for instance, might advocate enforcement measures if they believe these approaches benefit those targeted, but be unable to convince someone whose overriding concern is people's right to choose how they live of the same conclusion, even if they concede the paternalist's claim.

Second, people may ultimately endorse the same substantive conclusion (that enforcement is morally required, justified or deeply reprehensible) but do so by employing entirely distinct forms of normative reasoning. Given certain conditions (see below), for example, those swayed by utilitarian, paternalist and social justice frameworks may all be of the view that enforcement is ethically highly problematic. Here, disagreement concerns the kinds of moral reasoning and intuitions seen to be compelling, even though there is agreement on the kinds of policy that should (or should not) be pursued.

Third, people can disagree even if they hold most sympathy with the *same* normative lens: that is, they may employ the same style of ethical reasoning, but reach opposite conclusions. Two individuals with strongly utilitarian intuitions, for instance, who see the legitimacy of enforcement as entirely dependent on the consequences it leads to, may reach different final verdicts – depending on their experience or the evidence available to them – on whether it maximises overall wellbeing, or not.

That there are multiple normative frames of reference *and* multiple ways of disagreeing, may seem like a bleak conclusion that leaves little hope of reaching ‘a common point of view’ (Blackburn, 2001: 110) on the ethical legitimacy of enforcement. But such pessimism is not warranted. To begin with, and as the possibility of sharing a normative perspective but reaching distinct conclusions highlights, there is very often a central empirical dimension to these normative questions. What in fact are the outcomes associated with enforcement-based responses to street homelessness? Are those on the streets really making genuine ‘lifestyle’ choices? Are they seriously affecting the wellbeing of others? If those engaged in these debates accept the status of empirical evidence and the rules of rational argument, having clear answers to these questions narrows the range and clarifies the terms of ethical dispute.

Crucially, empirical evidence provides a means of assessing how convincing particular justifications or critiques of enforcement are *on their own terms* by arbitrating on the accuracy of their underpinning assumptions. For the paternalists’ viewpoint to be respected, for instance, they must acknowledge the weight of evidence demonstrating whether, when and to what extent enforcement serves the interests of those it targets (or not). The rights-advocate similarly must

show willing to respond to compelling evidence that street homelessness is not best understood as a non-conformist lifestyle choice (see Parsell, 2018). On this subject, it must be noted that research evidence regarding the outcomes of different forms of social control in homelessness interventions – including some of those most widely employed internationally – remains extremely limited<sup>4</sup> (Johnsen et al., 2018; Mackie et al., 2017).

Furthermore, whilst some commentators appear to be resolutely in favour of or opposed to enforcement, the greater majority of stakeholders interviewed articulated their positions in ambivalent or irresolute terms. Many described feeling ‘torn’ on the issue given the vulnerability of those affected, the unpredictability of outcomes, and the level of risk associated with both the use and non-use, of enforcement (see also Watts et al., 2018). These quandaries are well illustrated in the following comments made by a street outreach worker and rough sleeper, respectively:

I think it is a fine balance between giving people the freedoms that they are entitled to and neglecting them. It’s not completely clear to me, even, when one ends and the other one starts, you know? (Frontline practitioner, homelessness charity)

I have seen people on the streets that I really think are not going to survive and I’d like to grab hold of them and stick them in a hostel or an A&E [Accident and Emergency] centre but I respect them because they say they don’t need help and they do need help. It’s very hard. It’s a very thin line. (Homeless person, male, 50)

These thoughtful reflections on the ethical dilemmas and complex judgements involved in deciding whether or not enforcement is ethically permissible, or even required, stand in stark contrast to the rhetorical hyperbole deployed in many academic and media commentaries in this field.

## Conclusion

This paper set out to explore the normative perspectives of homeless people, frontline practitioners and other key stakeholders on enforcement measures targeting rough sleeping and other forms of ‘problematic street culture’ in the UK. Drawing on the ‘value pluralist’ philosophical tradition, in-depth qualitative research was conducted in six UK cities on the forms of moral reasoning drawn upon by these stakeholders in considering the ethics of enforcement. This illuminated six key normative lenses that shaped both *opposition to* and *support for* enforcement measures on street homelessness: paternalist, utilitarian, rights-based, contractualist, mutualist and social justice perspectives.

Whilst the paper explored the complex and divergent forms of ethical reasoning employed by these key stakeholders in this field, it has argued that there are three distinct reasons for optimism regarding the possibility of progress towards some – albeit always contingent and evolving – common moral point of view on these sensitive issues. First, it is evident that people deploying different forms of normative reasoning can nevertheless reach the same conclusion on the ethical legitimacy of enforcement, offering the possibility of robust policy consensus even when stakeholders are working from quite distinct moral foundations. Second, the current enforcement debate is characterised not by two opposing and resolute camps, but by multiple stakeholders holding often ambivalent views and ready to acknowledge the important moral dilemmas associated with this policy question. Third, the possibility of more and better empirical evidence on the impacts of enforcement in practice offers a means to reach a broader consensus, albeit that distinct foundational ethical commitments may sometimes leave stakeholders with irreconcilable views.

Whilst highlighting the diversity of normative reasoning in play, the analysis presented reveals a tentative degree of consensus amongst a range of stakeholders in the UK’s homelessness sector on some aspects of the question of enforcement’s legitimacy. In particular, many stakeholders agree that force can be justified when the activities of a member of the street population are having a clear negative impact on those around them (e.g. if they beg aggressively), albeit that there is less agreement on the question of whether it should be used when they are ‘only’ harming themselves (see also Johnsen et al., 2018; Sanders and Albanese, 2017). Homeless people, too, almost unanimously approve of enforcement when it is used to protect the public (including members of the street population) from harmful anti-social behaviour, but simultaneously express concern about possible risks to those targeted (on social justice grounds), discriminatory implementation (mutualistic grounds) or inadequacies in existing service provision (contractualistic grounds).

By transparently acknowledging the different perspectives of a wide range of stakeholders, the normative framework presented can be used to highlight areas of consensus, as well as help those involved understand one another’s perspectives, even if they find some of them unpalatable. This may go some way to reducing the heat generated by these debates and provide a platform for more constructive conversation about policy responses which take due account of the welfare of all stakeholders in this and other highly sensitive fields.

Finally, we would argue that preference on the part of some urbanists for lofty rhetoric over serious engagement with the realities of enforcement on the ground, and ignorance or dismissal of the plurality of sincerely held views on the ethics of such interventions – arguably evident in the more emotive contributions to the revanchist literature –

undermine the credibility of academic contributions to associated debate. More seriously, where evident in mainstream media, such rhetoric risks cheapening discourse on these highly complex and sensitive matters (Tosi and Warmke, 2016) and hindering constructive policy solutions. The rhetoric on this subject needs rebalancing and we would venture that the normative analysis put forward here is a helpful aid to that endeavour.


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### Notes

1. Two notable exceptions are Stuart's (2014) ethnography involving police practices in Los Angeles' Skid Row and Sanders and Albanese's (2017) study involving a survey of people with experience of rough sleeping.
2. The terms 'moral' and 'ethical' are often used interchangeably, but 'moral' can also be understood to have a narrower meaning, concerning how one ought to treat other people, whereas 'ethical' can be understood more broadly as encompassing 'living a life well lived', including themes of self-improvement, cultural enrichment and other 'self-regarding' issues in addition to other-regarding concerns.
3. See <http://www.welfareconditionality.ac.uk/>.
4. Housing First is a notable exception here.

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