Regulating the Private Rental Housing Market in Europe

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Abstract_ *This paper provides an overview of the nature and extent of the private rented sector in Europe. It highlights the growing interest in enhancing and regulating the sector after a prolonged period of neglect by policy makers in many countries. The different strategies that Governments have devised to regulate the sector, particularly rent control, are outlined and their evolution reviewed. More subtle and flexible rent regulations than characterised earlier forms of rent control have emerged, but it is unclear as to what impact these looser regulations are having on marginal households at the ' lower end ' of the private rented sector The strategies for promoting the private rented sector and the enforcement of the regulatory instruments vary by country, often a reflection of the experience of the sector during the 20th century. For some countries, the private rented sector remained robust after the strains of the 20th century, for others it was in a perilous position. Thus, strategies employed at the beginning of the 21st century, reflect in part these different historical end points as much as economic globalisation and the alleged ascendancy of neo-liberalism in the housing markets of Europe.*

Key Words_ *private renting, rent regulation, enforcement, homelessness*

Introduction

The private rented sector is increasingly viewed by Governments across the European Union as a crucial element in the mix of housing services that can provide accessible accommodation for households, unable or unwilling to enter homeownership or social rented housing, who are at risk of homelessness. In addition, Governments increasingly view the sector as capable of assisting households who are homeless to rapidly exit homelessness and maintain a long-term reasonably secure tenancy.

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In a range of countries, various access programmes and projects to sustain tenancies in the private rented sector are operative. How best to organise the private rented sector to achieve these objectives is subject to considerable debate, and practices vary considerably between jurisdictions. However, a number of common trends are becoming evident across the European Union and we reflect on how these changes have the potential to impact on rates of homelessness. As homeownership continues to increase its share of private dwellings in Europe (Scanlan & Whitehead, 2004; Doling & Ford, 2007), and social housing programmes are either in decline or not of sufficient quantity to meet demand, it is likely that the private rented sector will assume a more prominent and expanded role than was envisaged twenty years ago. Rather than viewing the sector as largely transitional, with households exiting the sector to what are often viewed as the more desirable tenures of home-ownership or social renting, with only a residual constant population, it is increasingly envisaged that the sector will become a long-term alternative to both social renting and home-ownership, particularly in the countries where the sector had declined most during the 20th century. To facilitate the growth of the private rented sector to meet these new expectations, the mode of regulation has shifted in some countries. Currently, the dominant policy instrument for regulating the sector is what has been termed 'tenancy rent control' or 'third generation rent control'[1], the key principle of which is rent control *within a tenancy*, but not between tenancies. This has occurred in tandem with a general deregulation and liberalization of the sector from statutory controls.

However, in many countries, a range of *de facto* controls still exist, which set limits on rents and other elements of private rented housing, usually in, the form of rent allowances / benefits and standards. As Carr *et al* observe, '[a]lthough it is a commonplace assertion that the private rented sector is deregulated and decontrolled, the types of control and regulation that exist in the sector have been dispersed through, for example, controls on housing benefit, property quality, and, less so, security of tenure' (2007: 122). While the paper is not in a position to evaluate the efficacy of these rental regimes in terms of reducing homelessness, either by preventing it from occurring in the first instance or by providing an exit route out of homelessness, it can provide a basis for such a discussion. The primary reasons for our inability to more formally evaluate the impact of different rental regulatory regimes on rates of homelessness relate to the well known difficulties in enumerating homelessness comparatively, particularly in relation to flow

[1] First generation rent controls were, in effect, rent freezes and emerged primarily in the second decade of the 20th century. From the 1970s onwards, particularly after the energy crisis of 1973, many governments imposed rent controls as part of their strategy of reducing inflation, but did allow for rents to be increased by a defined annual amount, usually related to the general cost of living, and that improvements to the dwelling etc. could be taken into account in setting the annual rent. These more flexible rent controls are known as second-generation rent controls.

data (Edgar & Meert, 2006), and secondly the methodological difficulties in evaluating the costs and benefits of various forms of rent control and regulation. In this context, Turner and Malpezzi (2003) observe that housing markets are regulated in a vast number of areas from rent control to planning processes, zoning regulations and so on, and if any lesson is to be taken from the myriad of studies that examined regulation of the housing market it is: 'regulation per se is neither good nor bad. What matters are the costs and benefits of specific regulations under specific market conditions' (2003: 15). In addition, as Haffner et al (2007: 4) observe, despite a now voluminous literature on rent regulation in the United States 'there is little evidence from Europe with its various types of rent regulation'. However, a voluminous literature does not guarantee consensus on policy issue and Keating has sardonically observed in relation to the United States:

> The heat generated by the debate over rent control has produced little agreement about the impact on tenants, landlords, or rental housing markets. Disagreement over the social and economic impacts of rent control, whether short-term or long standing, continues, despite numerous studies. Experts disagree over data, methodology, and the interpretation of research results (1998: 3).

The Extent of Private Renting in Europe

Private rented housing as a percentage share of total housing stock varies considerably across the EU. Based on the data presented in Table 1, only in Germany[2], Latvia and Austria do the number of private rented dwellings exceed one-third of the total housing stock.[3] For most commentators in the 1980s, the private rented sector in most countries was in terminal decline, brought about by *inter alia*, rent control which eliminated the incentive to invest in the sector, the development of financial service companies and building societies that provided capital to prospective owner occupiers, and substantial investment by govern-

2 Kirchner (2007) persuasively argues that the high proportion of private rented dwellings in Germany is attributable to the expiry of commitments, which is a uniquely German phenomenan, the advantageous tax treatment of the sector and the regulatory framework.

3 However, as is well known, considerable difficulties exist in accurately defining the private rented sector in a comparative context. In particular, distinguishing between purely private rented accommodation and various forms of social or non-profit renting appears especially problematic. For example, as Whitehead (1998: 362) observes 'it is usual in some countries to regard as 'social' any landlord who receives supply subsidies to provide for particular groups, even where in certain circumstances the prices at which the lettings are offered may actually not be below market rent or even where the property is privately owned and the landlord is acting commercially. In other countries such landlords would be defined as private'.

ments in social rented housing (Harloe, 1985). Over the *longue duree*, it is undoubtedly the case that the private rented sector shifted from being the most common tenure in a majority of countries in the first decades of the 20th century to being the minority tenure in the majority of countries by the 1970s.[4]

Table 1_ Private Rented Housing in Selected EU member states as a Percentage of Total Stock, 1990-2000.

	Private Rented circa 1990	Private Rented circa 2000
Austria	25	40.3
Belgium	31	25
Bulgaria		0
Czech Republic		17
Denmark	26	17.8
Estonia		9
Finland	9	17
France	23	19.7
Germany	43	51
Greece	23	19.9
Hungary		10.4
Ireland	8	11
Italy	23	16
Latvia		39.6
Lithuania		8
Luxembourg		27.5
Malta		22.4
Netherlands	12	10.8
Poland		0
Portugal	32	21
Romania		0
Slovak Republic		0.1
Slovenia		2.6
Spain	17	9.7
Sweden	19	22
United Kingdom	7	9.3

Source: Doling, J. 1997. Comparative Housing Policy: Government and Housing in Advanced Industrialized Countries. Basingstoke: Macmillan. p. 198; Norris, M. and P. Shiels. 2004. Regular National Report on Housing Developments in European Countries. Dublin: Stationery Office. p. 5.

4 A well known exception to this trend is Switzerland, where second generation rent controls were introduced in the early 1970s, but where approximately two-thirds of households consistently rent privately (see Werczberger, 1997 for further details).

From this data, we can tentatively identify (Table 2) four worlds of private renting drawing on the well-known work of Esping-Andersen (1999).[5] Mediterranean countries, where the sector is in decline in all countries; liberal regimes, where the sector is growing in all; social democratic regimes, where an even mix of growth and decline is observed, and finally a corporatist world, where in most cases a modest decline in evident.

Table 2_ Private Rented Regimes in Europe, c1990-c2000

Mediterranean Regimes – (Greece, Italy, Portugal, Spain)	*Liberal Regimes* + (UK, Ireland)
Social Democratic Regimes + / – (Denmark, Finland, Sweden, Norway)	*Corporatist Welfare Regimes* – /+ (Belgium, France, Germany, Netherlands)

However, overall, Europe in housing terms is, as Doling and Ford (2007: 113) have observed, a Union of owners. Close to two-thirds of all households in the European Union are home-owners, with only Germany, Sweden and the Czech Republic having a homeownership rate of less than 50 percent. The majority of those who are not homeowners occupy rental properties of various types, although for analytical purposes, rental properties are usually divided between social rented and for-profit rental. Although variable, it is apparent that social rental housing has declined as a share of total stock over the past two decades (Whitehead & Scanlan, 2007). This is particularly the case in relation to state managed social housing, with an increasing share of social housing provided by the non-profit sector. Difficulties in the management of State social housing estates has led towards a decided shift towards demand led subsidies for low income households, rather than a 'bricks an mortar approach' that characterised many countries from the 1950s to the 1970s (Gibb, 2002; van der Heijden, 2002).

Over the past decade or so, a revival in the fortunes of the private rented sector in countries like Ireland, the UK, Finland and Austria is evident. The reasons for the reversal in the fortunes of the private rented sector in these countries are complex, but if a consensus exists, it is that the deregulation of the sector, to varying degrees, across Europe, has facilitated this transformation. This is certainly the view of the European Central Bank (ECB) who have argued that 'EU governments have responded over the years to the fall in the size (and quality) of the market for private rented dwellings and have to various degrees relaxed rent regulations' (ECB, 2003: 27).

5 The Central and Eastern Countries are excluded from this table on the basis that we do not have accurate time series data for these countries, thus making it probelmatic to describe trends over time.

Consequently, most countries now allow for various forms of rent indexation linked to consumer price inflation and rent adjustment clauses (see Box 1). In the process, the ECB noted that '[t]he process of decontrolling rents in new contracts has been closely linked to a revision of contract termination rules' (2003: 28).

Box 1_ Major reforms of rent regulations since 1980 in selected EU countries

Belgium 1984-2005): rents and terms of contract become free; for existing contracts rent increases are linked to CPI. 1991: increasing tenure security by introducing 9 year contracts; 1997: Limits set to new short-term agreements; 2005: enforcing the combat against landlordism; attempt to take conflicts out of courts; attempt to make rents more transparent

Denmark 1990: Condominiums built after 1991 exempt from rent control.

Germany 1983: Introduction of upper limit of 30% in a three-year period on rent increases for sitting tenants, rent escalation clauses and rent contracts linked to a price index permitted. 2001: Upper limit on rent increases in a three-year period reduced to 20%. Period of giving notice for tenants reduced to three months.

Greece 1997: Freely negotiated rents in new contracts. Minimum duration of contracts of 3 years.

Spain 1985: Freely negotiated rents in new agreements. 1995: Minimum lease of five years (at tenant's option); CPI indexation; One-off updating of existing contracts (to be implemented over ten years).

France 1997: New contracts liberalized.

Ireland 1982 Rent control abolished. 2004. Residential Tenancies Act, 2004. Provides 'security of tenure' for up to 4 years, sets market rents, and establishes a regulatory body for the sector, the Private Residential Tenancies Board.

Italy 1992: Freely negotiated new fixed-term contracts introduced. 1998: Two types of "free" contracts: freely negotiated at the individual level at the start and contracts where yearly rent increases are collectively negotiated by landlords and tenants.

Luxembourg 1987: Increases in the rents of dwellings built before 10 September 1944 and clarification of the meaning of invested capital for those built after this date.

Netherlands 1994: Liberalized more expensive segment of rental market.

Austria 1986 : Partial liberalization of new tenancies. 1984 : " Indicative value rent system " introduced.

Portugal 1981 : Freely negotiated rent contracts for new tenancies introduced (but no indexation allowed in these contracts). 1985 : Mechanism of updating all rents with CPI ; one-off updating of old contracts (but still remaining very distant to rents in new contract. 1990 : Possibility of setting a limit on the duration of rental contracts. 1993 : Possibility of introducing different indexation mechanisms under specific circumstances

Finland 1990-1992 : Gradual liberalization of rent controls. After 1995 : Rents are practically free from public control, they should not be " excessive " (in a legal sense).

Sweden No major reforms that could improve the efficiency of allocation in the rental sector have been undertaken.

UK 1988 : Assured tenancy—eviction easier and initial rent and indexation negotiated.

Source : European Central Bank. (2003 : 52) ; Authors updates.

Understanding the Private Rented Sector in Europe

We can understand the structure of the private rented sector in a number of ways. Perhaps one of the most influential is that of a model of unitary *versus* dualist rental systems devised by Kemeny (1995, 2006), albeit that his thesis primarily aims to explain rates of homeownership rather than the dynamics of the private rented sector *per se*. *Dualist rental systems* are generally found in countries with liberal economic philosophies. The overarching role of the State is to allow the free play of markets and through this mechanism, social and economic needs will be realized. However, for various reasons, a minority of the population will not be able to satisfy their housing needs through the market and the State reluctantly intervenes to provide a residual service. Significantly, in order to avoid market distortions, this residual service is insulated from the market and a command economy instituted to determine need and allocation. Thus, dualist systems are characterized by on the one hand a largely unregulated profit-driven rental market and, on the other, a tightly controlled state or social rental sector. With restricted access to a generally stigmatized state rental sector and little security of tenure or regulation of rent in the private sector, households enter into homeownership in lieu of other satisfactory alternatives.

On the other hand, *unitary rental systems* find their origins in the social market model that originated in Germany in the 1930s and constructs markets in such a way as to strike a balance between economic and social priorities and thereby ameliorate the undesirable effects of the market from within (Kemeny, 1995 : 11). Thus, while no ideological block exists to prevent intervention in the market, nonetheless, a key principle is that any intervention must be market conforming. Rental sectors are not segregated as they are in countries with unitary systems, but rather the non-profit and the for-profit rental sectors are structured by the State and through the regulatory regime that it imposes will be in competition with one another. The competition between for-profit and non-profit renting leads to restricted rents in the for-profit sector, greater security of tenure for tenants and a viable alternative to homeownership. Table 3 outlines the hypothetical differences between unitary and dualist rental systems and identifies the countries that appear to match these ideal types.

Table 3_ Hypothetical differences between unitary and dualist rental systems

	Dualist rental system	**Unitary rental system**
1. Share of owner-occupancy sector	relatively large	relatively small
2. Distribution of dwelling types and dwelling sizes	social rental and private rental dwellings are not necessarily present in the same segments of the housing market	social rental and private rental dwellings are present in the same segments of the housing market
3. Level of housing quality	relatively large housing quality differences between the owner occupancy and the rental sector	relatively small housing quality differences between the owner occupancy and the rental sector
4. Income distribution of tenants	relatively strong residualisation in both rental sectors	relatively limited residualisation in both rental sectors
5. Rent levels, corrected for housing quality	large differences between social rental and private rental dwellings	small differences between social rental and private rental dwellings

Source : Hoekstra (2005).

Rent controls

A second way of understanding rental markets is the degree to which the State regulates the conditions under which private renting can occur, particularly, the latitude given to landlords to raise rents.[6] In very broad terms, most European governments introduced rent controls during or immediately after the First World War. Now known as *first generation rent controls*, these rent controls were, in effect, rent freezes. These first generation rent controls were particularly crude instruments and contributed in part to the decline of the private rented sector through the inability to remove them or adapt them to changing economic circumstances. However, we do need to be cautious about attributing, in full, the blame for the decline in the private rented sector to first generation rent controls. As Harloe has noted '[t]he impact of rent controls was far from simple and self-evident. In some countries the most rapid decline in the sector occurred after 1960, at a time when rigid controls were giving way to decontrol or to more flexible controls which attempted to relate rent levels to quality and costs' (Harloe, 1985: 298). It is also clear that additional reasons for the decline of private rented housing included the mass provision of social rented housing from the 1950s, which reduced the dependency of low-income households on the private sector and the increased affordability of homeownership for middle-income households (Brown, 1970). From the 1970s onwards, particularly after the energy crisis of 1973, most governments imposed rent controls as part of their strategy for reducing inflation. However, these controls did allow for rents to be increased by a defined annual amount, usually related to the general cost of living, and also allowed for improvements to the dwelling etc. to be taken into account in setting the annual rent levels. These more flexible rent controls, known as *second-generation rent controls*, were in the main, replaced from the early 1990s by tenancy rent control, or *third generation rent controls*, that is, rents are regulated within an individual tenancy, but not between tenancies. A key reason for the introduction of second and third generation rent controls were the introduction of rent allowances / benefits in many countries from the 1970s onwards. According to Turner and Elsinga (2005: 104) '[t]he introduction of housing allowances also enabled to state to relax the rather stringent post-war rent controls in the private rented sector without jeopardizing housing provision and affordability for low-income households facing rent increases. They were seen as a cost-efficient tool that permitted rents to rise, thus helping to keep the market efficient.'

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6 A radically different regime in relation to rent regulation was introduced in the former state socialist regimes, where rents were set an very low levels and were rarely increased until 1989. For a brief overview of the changes that have occurred since 1989 in these countries, see Roberts, (2003).

According to Arnott (2003), *tenancy rent control* is now perhaps the most common form of rent control. Part of the reason for its popularity is that it straddles a middle ground between those who advocate full deregulation of the private rental market and those who demand full rent control. It satisfies both landlords and tenants in that allows starting rents to be market clearing and hence avoids the well known difficulties of rent controls such as the mismatch of housing to tenants and the issue of key money. Furthermore, it provides tenants with a degree of security of tenure by preventing excessively sharp rent increases, which can generate economic evictions, nor generally does it allow eviction for the purposes of rehabilitation or redevelopment. Useful as these broad trends are for understanding the private rented housing market in Europe, they do not fully capture the complexity of the changes taking place, particularly with respect to lags in deregulation. Lind (2001) has suggested that five regulatory systems operate in Europe. These are:

Type A: Weak transaction cost related rent regulation. Protecting a sitting tenant against rents higher than the market rent

Type B: Strong transaction cost related rent regulation. Protecting sitting tenants against certain types of increases in market rents

Type C: Monopoly related rent regulation. Protecting all tenants against rents higher than the market rent

Type D: Smoothing changes in market rents. Rent regulation related to overshooting

Type E: Protecting all tenants against certain types of increases in market rents. Segregation related rent regulation

Lind suggests (Table 4) that Austria and Sweden maintain rent regulation that can keep the rent level permanently below the market level (type E). Germany maintains rent regulation for sitting tenants that protects them from certain increases in market rents (type B) and also some system for keeping rents in new contracts from increasing rapidly, without "permanently" holding them below market level (type D). The Netherlands and France are borderline cases for types B/D. Switzerland and Spain have rules protecting sitting tenants against certain types of increases in market rents (type B). Finally, Great Britain has only rules protecting tenants against landlords demanding rents above the market level (type A and/or type C).

Table 4_ Rent regulation system in some European countries[7]

Country	*Type A Weak transac-tions cost related*	*Type B Strong transac-tions cost related*	*Type C Monopoly related*	*Type D Over-shooting related*	*Type E Segregation related*
Austria	=>	=>	=>	=>	Yes
France	=>	Yes	Yes	(Yes)	No
Germany	=>	Yes	Yes	Yes	No
Great Britain	?	No	?	No	No
Netherlands	=>	Yes	Yes	(Yes)	No
Spain	=>	Yes	?	No	No
Sweden	=>	=>	=>	=>	Yes
Switzerland	=>	Yes	?	No	No

Source: Lind (2001: 50)

In broad terms, the rent regulation systems approach by Linds (2001) mirrors, in part, the unitary – dualist schema developed by Kemeny (1995). The countries identified by Kemeny as unitary are also those that cluster closely both geographically and ideologically (with mixtures of type B/D/E rental systems) in the Linds schema and *vice-versa*.

In its earlier manifestations, rent control was seen as an instrument that could reduce homelessness, as it would remove the likelihood of economic eviction; that is households having to leave their dwelling due to their inability to pay the increased rent demanded by a landlord. Indeed, such a perspective remains a reasonably common refrain amongst certain advocates for the homeless. On the other hand, some have argued that rent control, while benefiting marginal households in private rented accommodation does little for those seeking accommodation and, in distributional terms, many of those in rent control dwellings are privileged insiders whose incomes do not require rent control.[8] In the 1980s in the United States, as homelessness was rising, in some cities quite dramatically, William Tucker, a journalist

7 The symbol => means that this kind of rent regulation exists, not as a special system but as an implication of a more encompassing system of rent control. A question mark means that it is not clear from the sources if this type of regulation exists. A 'yes' in parenthesis means that the practical application of another type of system leads also to this kind of protection.

8 For example, a recent study in Sweden found that even with rent regulation, higher income groups will still obtain the best quality and best located dwellings (See Lind and Hellstom, 2006 for further details).

with the *American Spectator*, claimed that rent control was the single biggest contributor to homelessness in the US and that '[u]nless these cities (which have recently adopted rent control) can be persuaded to give up rent control, the ranks of this minority – the homeless – will continue to grow' (Tucker, 1987). However, Quigley, on reanalysing the data used by Tucker and incorporating income and price variables concluded that the 'existence of rent control is, according to these results, irrelevant to the extent of homelessness in these cities' (1990: 93). Similarly, Appelbaum *et al* (1991) refuted Tucker's thesis and argued that the increase in homelessness had to do with factors other than rent control. Arnott (1995: 116), in his state of the art review of rent controls, sagely observed that 'since no empirical studies adequately account for the many possible linkages between rent control and homelessness, whether rent control contributes to homelessness remains an open issue'. More recent North American reinterpretations of the 1990 census suggests that the existence of a rent control can contribute very marginally (increases of 0.03% in a city's shelter population and a 0.008% in its street count were identified) to homelessness by decreasing the rental vacancy rate and by increasing rents in the non-controlled sector (Grimes & Chressanthis, 1997).

Recent trends

One perennial difficulty with typologies is that while they capture very succinctly the state of play in rental markets at a particular point in time, they are by their nature static in terms of the description of any particular country. For example, in the case of the Netherlands, policy in relation to the private rented sector shifted in late 2004, with the announcement that one-quarter of the 3 million private rented properties would be gradually deregulated, with the remaining stock subject to substantial rent increases – from 1.5 percent above the rate of inflation in 2005, rising to 3% over the rate of inflation in 2009 (Boelhouwer, 2006a and b). In summary, the nature of the private rented sector is changing in Europe, but rather than seeing a uniform shift to less and less regulation and the liberalization of this sector of the housing market, different countries are adapting to new demands in distinctive ways. While first generation rent controls are exceedingly rare, rent allowances do provide a cap on the rent that governments pay, and in some countries, the rent allowance market makes up a considerable part of the overall private rented market (see Kemp 2007 for further details). Second generation rent controls are still evident, but increasingly we are likely to see third generation rent controls becoming the norm. Aside from the regulation of rents, we are witnessing the enhanced regulation of standards in the private rented sector in a number of countries and the development of new dispute regulation mechanisms e. g. Ireland and Belgium (De Decker, 2001; Ryall, 2006). In addition, irrespective of the regulatory mechanisms utilized, the majority of Governments in the European Union see the private rented sector as an increasingly important element of the housing market, particularly in countries where the sector had withered during the 20th century. In the case of the UK, Cowan *et al* argued that '[c]entral government has argued since the mid-1980s that it needs the private rented sector and the sector has taken up a privileged position in housing policy debates. No longer are landlords perceived in this discourse as rachmanites[9] – rather, they are partners in local housing strategies' (2001: 853).

Homelessness and the Private Rented Sector

In recent years, social science research on homelessness has increasingly come to understand homelessness as the outcome of a dynamic interaction between individual deficits and structural change. From this understanding of homelessness, a broad conceptual framework has emerged that aimed to understand pathways into and out of homelessness underpinned by the notion of a homeless 'career' (Clapham, 2003). This notion of a career stands in contradistinction to understandings of the homeless as static entities. The 'career' concept emerged as research became methodologically more sophisticated, and moved away from cross-sectional or point-in-time surveys to longitudinal approaches (Wong, 1997). In doing so, researchers became increasingly aware that households moved into and out of homelessness on a more frequent basis than cross-sectional studies had revealed. More importantly, cross sectional studies over-estimated the severity of homelessness, as at any point in time, those who are long-term or chronically homeless will be over-represented. From an almost exclusive focus on routes or pathways *into* homelessness, a focus on routes *out* of homelessness emerged as it became clear that homelessness was more likely to be episodic than a progression towards chronic homelessness and understanding the conditions for successful long-term exiting from homelessness came to the fore in researchers' and indeed policymakers' agendas. Thus, by the beginning of the 21st century, homelessness was increasingly seen as a situation that could occur for a much greater number of households than was envisaged some twenty years earlier. Importantly, this longitudinal research highlighted that individual deficits were not as significant as previously thought in determining, either entry to homeless, length of time homeless or success at existing homelessness. Rather, the provision of institutional support, particularly affordable independent accommodation and / or financial assistance towards housing costs was demonstrated to be the most important factor in existing homelessness on a long-term basis.

9 Peter Rachman was a London landlord in the mid-20th century. He became so notorious for his exploitation of tenants that the word "Rachmanism" entered the OED as a synonym for any greedy, unscrupulous landlord.

In understanding whether or not a household experienced an additional episode of homelessness following an initially successful exit, both Sosin *et al* (1990) and Piliavin *et al* (1996) distinguished between 'dependent' and 'independent' exits. Independent exits, as the term suggests, were to private accommodation, without formal support from social service type agencies and where the costs of the accommodation were largely borne by the resident, albeit with support in the form of housing allowances. 'Dependent' exits on the other hand ranged from transitional housing to staying with family and friends. Those who made independent exits were less likely to return to homelessness than those who made 'dependent' exits. This appeared to be particularly the case when accompanied by welfare support in the form of financial assistance. This led the authors to conclude that 'accessibility and availability of sustained institutional support influence the likelihood of exists from homelessness' (Piliavin *et al,* 1996: 52). The availability of affordable housing also emerged as a key determinant of successful homeless exits in Wong *et al* 's (1997: 459) study of family shelter users in New York who argued that 'our data clearly indicate that subsidized housing is linked with substantially lower rate of readmission to the Family Shelter System. ' Zlotnick *et al*, (1999: 220) argued in a similar vein in their study of homeless exits in California that 'entitlement-benefit income, and an exit into subsidized housing, were significantly associated with an exit from homelessness into stable housing, ' but that those homeless who were substance users were less likely to exit homelessness than those who were not (Zlotnick *et al*, 2003).

Dworsky and Piliavin (2000: 209) further elaborate on these findings and confirm that 'the type of housing situations to which people exit significantly affects the likelihood of them becoming homeless again'. In other words, not all homeless exits are equal and greater specificity as to the nature of the initial exit could assist in predicting future returns to homelessness. In particular, they argue that the most important factor in not returning to homelessness appears to be access to a private residence[10] rather than agency-managed transitional housing or informal arrangements such as staying with family or friends. The apparent lack of success of transitional housing in preventing returns to homelessness is compounded by other research which highlights the fact that that those homeless households who resided in service intensive homeless services did not have shorter stays than those in less service intensive projects (Gerstel *et al*, 1996). What the authors describe as the 'therapeutic incarceration' of homeless families in transitional housing, whereby a disciplinary regime was imposed to ensure adherence to the 'life-skills' that would prevent homeless, actually worked to maintain dependency. This, the authors

10 By this they mean private residences that individuals considered their own and for which they paid all or a substantial part of the housing costs, rather than, for example, social service agency run transitional housing, concluded was because individual deficits were not the primary reason for homelessness; rather it was the lack of affordable housing.

Based on qualitative research in England, May (2000: 615) argues that, 'for the majority of single homeless people the experience of homelessness is neither singular nor long term but episodic, with each homeless episode interspersed with often extended periods in their own accommodation and with no increase in either the frequency or duration of homeless episodes over time'. Crucial to exiting homelessness was the supply of good quality private rented accommodation and employment. Likewise, Hall (2003), in his ethnographic account of the lives of young homeless people in a town outside of London, notes the episodic nature of their homelessness. Describing a world of grimy private rented bedsits, where evictions are commonplace and security of tenure non-existent, he argues that:

> … young people leaving Lime Street struggle to find themselves at home and happy as bed-sit tenants in houses of multiple occupancy. About half of those who are rehoused in this way are on the move within a matter of months, trading one tenancy for another nearby, or homeless again. This pattern – shifting back and forth between cheap rented rooms and returning to the hostel in extremis – is one that some of those who pass through Lime Street cannot seem to shake, and amounts to a continuing, episodic homelessness (Hall, 2003: 75).

On the other hand, Crane and Warnes (2000: 763) in their study of 45 older homeless individuals who had experienced an eviction, suggest that none were evicted from the private rented sector, rather local authorities or housing associations evicted them.

Although based on relatively limited research evidence, it is clear that the private rented sector plays an important role in the lives of homeless people. In particular, the 'lower end' of the private rented, described so graphically by Hall, is one of the few housing options available to those precariously situated at the intersection between emergency / temporary accommodation and reasonably secure accommodation. In addition, it seems that the sector offers considerable potential to assist individuals achieve 'independent' exists from homelessness, particularly if coupled with financial assistence.

A proxy for the 'lower end' of the private rented sector is the number of households in receipt of a rent subsidy (sometimes known as a rent allowance or benefit). Housing allowances are described by Turner and Elsinga (2005: 103) as schemes which 'enable low-income households to consume more housing than their incomes would normally permit'. Housing allowances, while sharing this overarching objective, they vary considerably in the way in which they are constructed and administered. Detailed comparative estimates for the number of such households as a percentage of the private rented sector are difficult to compile, and appear to vary considerably (Haffner & Boelhouwer, 2006; Kemp, 2007).[11] In addition, we have little information on the characteristics of those who inhabit the private rented sector. Scanlon and Whitehead (2004: 17) suggest that residence in the private rented sector is on average across Europe, more common for young housing entrants than it is for midlife households (30 percent compared to 10 percent).

It is clear that the bottom end of the private rented sector is often volatile and unpredictable in terms of security of tenure and that the quality of the accommodation remains geared towards short-term lets, and as a result, standards are often poor. Thus, a key policy challenge is to devise mechanisms that improve the standards of the 'lower end' of the private rented sector, provide enhanced security of tenure and stability in rent levels without pricing the sector out of reach for marginal households. This appears all the more important in a policy context where social rental housing output is likely to remain marginal relative to demand and heavily rationed. Thus, the private rented sector, particularly for single person households, is likely to be the key source of accommodation for those unable to enter owner-occupation. In terms of speedy exists from homelessness, it may offer certain advantages, but to ensure such exists are sustainable, enhancing standards and security of tenure are vital.

Regulating the Private Rented Sector

A perennial issue is how best to regulate the sector. The previous sections have highlighted the various strategies employed over the course of the 20th century and the difficulties associated with them. In addition to the efficacy of the various strategies deployed, a key problem has been enforcement of the desired policy objectives. In this respect, considerable difficulties exist in relation to ascertaining the most effective modes of regulation. As Turner and Malpezzi (2003: 17) note '[I]nformation about the efficacy of enforcement systems tends to be uneven, at best. In some countries, regulations are widely flouted; for example, in cities as disparate as Cairo and New York, tenants commonly pay large deposits for strictly regulated apartments, even though such payments are illegal.'

11 One of the difficulties in accurately assessing the extent to which households in the private rented sector are in receipt of a housing allowance, is that that many countries do not differentiate between private and social renters in estimating the number of renters in receipt of a housing allowance.

Enforcement strategies

To varying degrees, modes of regulation that imposed rigidities, such as rent control, and which were implicated in the stagnation and in some cases decline of this private rented sector, have gradually been withdrawn. The observed increase in the share of private rented housing in many countries has been accompanied by a parallel increase in homeownership, with social housing squeezed between these two tenures into a declining and residual tenure. This reflects, in part, the greater use of the private rented sector, *via* a complex series of demand subsidies, to accommodate households that until recently would have had expectations of accommodation with the social housing sector. As the private rented sector increasingly accommodates, on a longer term basis than would have been the norm in the past, marginal households that either cannot access, do not wish to access, or have been excluded from social housing, new strategies for both regulation and enforcement are required. However, in some instances, given the increasing dependence of housing authorities on the private rented sector to meet, in some cases, their statutory obligation to house marginal or homeless households, any intervention that could potentially adversely affect the supply is treated with great caution. For example, in Scotland, it was observed that 'local authorities were generally circumspect about strengthening security of tenure, or indeed other forms of regulation, for fear of restricting supply' (Houston *et al*, 2002 : 51). However, in the case of the Republic of Ireland, increased regulation of the sector from 2004 did not result in supply restrictions, rather the sector has expanded. Carr *et al* (2007) suggest in the case of the UK, an attempt has been made to create two types of landlord, the majority who are responsible and minority who are irresponsible. From this stems two regulatory strategies. For the responsible landlords 'responsible self-government, community regulation and self-policing (voluntary licensing, accreditation, kitemarks) – are appropriate. For the latter, an array of more intrusive, disciplinary regulation is prescribed – licensing, housing benefit restriction, risk-based regulation of property quality (2007 : 109). A key reason for the hesitant and fragmentary approach to regulating the private rented sector, in the UK at least, is attributable to 'the fact that entrenched positions have developed amongst the interested parties, and that often appear to be based on a degree of mutual suspicion and lack of trust (Rugg & Rhodes, 2003 : 944).

Conclusion

Across the European Union, the role of the private rented housing sector in meeting a range of housing needs that cannot be met *via* homeownership or through social housing is increasingly to the forefront of housing policy debates. A key aspect of the debate is how best to regulate (or not) the private rented sector to ensure an adequate supply of units, but simultaneously protecting tenants from the vicissitudes generated by market provision. In comparison with relatively rigid controls on the sector that were evident in the 20th century, more subtle and flexible rent regulations have emerged, but it is unclear what impact these looser regulations are having on marginal households at the 'lower end' of the private rented sector. It is this end of the market that enforcement strategies are most problematic. Those who occupy such housing tend not to be fully aware of their rights as tenants, and for those that are, may be fearful of retaliatory eviction if they complain to the appropriate regulatory body.[12]

The strategies for promoting the private rented sector and the enforcement of the regulatory instruments vary by country, often a reflection of the experience of the sector during the 20th century. For some countries, the private rented sector remained robust after the strains of the 20th century, for others it was in a perilous position. Thus, strategies employed at the beginning of the 21st century, reflect in part these different historical end points as much as economic globalisation and the alleged ascendancy of neo-liberalism in the housing markets of Europe. From the limited empirical evidence available to us, it seems that it is the countries with dualist rental housing markets that have the greatest difficulties enforcing standards in the private rented sector, due in large part to an absence of a sufficiently large public or non-profit rental market to either provide an alternative to market renting or to provide an internally competitive rental market that would bring about more effective enforcement.

In the context of minimizing the risk of homelessness and providing exits out of homelessness, and viewing the private rented sector as a key element in the mix services to achieve these objectives, clearly the larger the private rented sector the better. Thus, intuitively, unitary rental markets are more desirable than dualist ones if the Kemeny thesis holds true. Regulating the 'lower end' of the private rented

12 Interestingly, in both the UK and Ireland, the regulatory agencies are the local authorities and additionally in Ireland, the Private Residential Tenancies Board. In both cases, the police have little or no role to play, particularly in the case of illegal evictions. As Cowan *et al* note, many crimes that are policed via regulation tend be victimless, but 'landlord crime has a clear victim in the occupant. This suggests it is of a different nature too much regulatory crime and hence more like ordinary crime. Yet, not allocating the primary prosecutorial role to the police sends a message that landlord crime is also different from ordinary crime. The status of the landlord therefore appears rather ambiguous' (2001 : 839).

market may be better achieved through promoting a unitary rental system, than by attempting to regulate the private rented sector *per se*. However, it has been noted that considerable difficulties exist in relation to shifting from a dualist to a unitary housing system and it would require very substantial changes not just in housing policy, but also in labour market policy and social security systems (Stephens *et al*, 2003 ; National Economic and Social Council, 2004). Thus, in the short-term, moving those countries with dualist systems towards unitary systems is not a feasible option. In addition, we need to recognise that the countries with unitary systems, while undoubtedly producing a greater proportion of private rented dwellings than dualist systems, do not necessarily result in marginal households being satisfactorily accommodated. The trajectory of the private rented sector into the 21st century, despite some broad similarities, is unique to each member state and crucially was and is dependent on not only housing policy, but on the fiscal treatment of property. Thus, cognizance needs to taken of both the broad policy environment in which the private rented sector operates in individual countries rather than attempting to outline a pan-European blueprint for both the role and nature of the regulation of the private rented sector.

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