Public, Private, or In-Between? The Legitimacy of Social Enterprises in the Housing Market

Anita Blessing

Abstract Social housing in Western welfare states has undergone change over recent decades, characterised by greater reliance on private actors, market mechanisms and commercial capital. Within housing research, this shift has been described as a linear 'migration from the public sector towards the private market', and conceptualised as 'modernisation'. While empirical change calls for conceptual renewal, the labels we apply to processes of change may limit or enhance potential to understand them. This paper explores the problem of conceptualising change in social housing, focusing on a key facilitator of market-based reforms: the mobilisation of private not-for-profit housing associations as social enterprises in the housing market. It explores their changing roles in English and Dutch housing provision, tracking state policy shifts and debate over their organisational legitimacy for insights into their emergence and trajectories. Contrary to linear 'modernisation', findings suggest cyclical movement. Over time, aspects of the work and identity of housing associations shift between public and private domains.

Résumé Le logement social dans les états providence occidentaux a fait l'objet d'une évolution au cours des récentes décennies, se caractérisant par un recours accru aux intervenants privés, aux mécanismes du marché ainsi qu'au capital commercial. Au sein de la recherche sur le logement, cette mutation a été décrite comme une « migration linéaire du secteur public vers le marché privé » , et conceptualisée à titre de « modernisation » . Si le changement empirique impose un renouveau conceptuel, les désignations que nous attribuons aux processus de changement sont susceptibles de limiter ou d'optimiser le potentiel pour les comprendre. Cet article s'intéresse au problème de la conceptualisation du changement dans le secteur du logement social, en s'attachant particulièrement à un élément

A. Blessing (✉)
Centre for Urban Studies, University of Amsterdam, Plantage Muidergracht 14, 1018 TV
Amsterdam, The Netherlands
e-mail: A.P.Blessing@uva.nl

facilitateur clé des réformes basées sur le marché, à savoir la mobilisation des associations d'aide au logement, privées et sans but lucratif en tant qu'entreprises sociales au sein du marché du logement. Les transformations de leurs rôles en matière d'attribution de logement en Angleterre et aux Pays-Bas, sont analysées par une étude des variations quant aux politiques des états et du débat portant sur leur légitimité organisationnelle afin de recueillir des éléments sur leur émergence et leurs trajectoires. Contrairement à la « modernisation » linéaire, les conclusions indiquent un mouvement cyclique. Au cours du temps, les aspects du travail et de l'identité des associations d'aide au logement alternent entre les secteurs public et privé.

Zusammenfassung Das soziale Wohnungswesen in westlichen Sozialstaaten unterlag in den letzten Jahrzehnten Veränderungen, die im Einzelnen durch eine größere Abhängigkeit von privaten Akteuren, Marktmechanismen und kommerziellem Kapital gekennzeichnet sind. In Forschungen zum Wohnungswesen wird diese Veränderung als eine lineare „Migration vom öffentlichen Sektor in Richtung des privaten Marktes"beschrieben und als „Modernisierung"konzeptualisiert. Eine empirische Veränderung verlangt eine begriffliche Erneuerung; doch können die Bezeichnungen für Änderungsprozesse das Verständnis entweder einschränken oder fördern. Dieser Beitrag untersucht das Problem der Konzeptualisierung der Veränderungen im sozialen Wohnungswesen und konzentriert sich dabei auf einen entscheidenden Antriebsfaktor für marktbasierte Reformen: die Mobilisierung privater gemeinnütziger Wohnungsbaugesellschaften als Sozialunternehmen auf dem Wohnungsmarkt. Der Beitrag erforscht ihre sich wandelnden Funktionen in der Wohnraumbereitstellung in England und den Niederlanden, wobei die Änderungen in der staatlichen Politik verfolgt und ihre organisationale Legitimität diskutiert werden, um Einblicke in ihre Entwicklung und ihren Bewegungsverlauf zu verschaffen. Im Gegensatz zu einer linearen „Modernisierung"weisen die Ergebnisse auf eine zyklische Bewegung hin. Aspekte der Arbeit und Identität der Wohnungsbaugesellschaften wechseln im Laufe der Zeit zwischen den öffentlichen und privaten Bereichen.

Resumen La vivienda social en los estados del bienestar occidentales ha sufrido cambios a lo largo de las últimas décadas, caracterizados por una mayor confianza en actores privados, mecanismos de mercado y capital comercial. Dentro de la investigación sobre vivienda, este cambio ha sido descrito como una "migración lineal desde el sector público hacia el mercado privado", y se ha conceptualizado como "modernización". Aunque el cambio empírico exige renovación conceptual, las etiquetas que aplicamos a los procesos de cambio pueden limitar o destacar el potencial para comprenderlos. El presente documento explora el problema del cambio conceptualizante en la vivienda social, centrándose en un facilitador clave de reformas basadas en el mercado: la movilización de cooperativas privadas de viviendas sin ánimo de lucro como empresas sociales en el mercado de la vivienda. Explora sus papeles cambiantes en la provisión de viviendas inglesas y holandesas, siguiendo el rastro de los cambios de la política estatal y el debate sobre su legitimidad organizativa en busca de percepciones sobre su surgimiento y trayectorias.

Contrarios a la "modernización" lineal, los hallazgos sugieren un movimiento cíclico. Con el tiempo, aspectos del trabajo e identidad de las cooperativas de viviendas cambian entre dominios público y privado.

Alongside the longstanding debate over *to whom* social housing is provided, the problem of *how* and *by whom* it is provided is now central to social housing reform. Over recent decades, national policy regimes have moved aspects of social housing provision further into the private realm and introduced a stronger role for market forces. Private housing providers employ market mechanisms to fulfil publicly defined mandates for rental housing provision. State-support is increasingly used to leverage private investment into socially oriented projects. In a number of national contexts, private not-for-profit organisations have helped to facilitate this approach, working within the scope of government strategies. In the Netherlands and Sweden, civil sector and municipal housing companies were supported into mainstream housing provision to address post-war shortages. In the 1990s, as state subsidies were rolled back, they were made independent owners of substantial property assets. While still regulated by government, asset ownership gave these private entities scope to take commercial risks and generate profits, redirecting them to social projects (Priemus 2008; SABO 2009). Development in the USA, Australia and England took a different path, with public housing downsized and targeted to high need. From the late 1980s, new streams of state support and in some cases, transfers of public dwellings helped grow small sectors of not-for-profit housing providers. While many remain reliant on state subsidies, recent reforms have encouraged growth, commercial risk taking and cross subsidisation of social projects with commercial profits (Bratt 2009; Milligan et al. 2009).

In housing research, the dualism of 'state' and 'market' remains a core classification (Blessing 2012), yet these market-based reforms span public and private realms and blend bureaucratic and commercial logics. This presents a challenge for housing research: how can change be conceptualised? A number of studies have used the concepts of 'privatisation' and 'marketisation' to frame change in terms of decline of the public realm (see Ginsburg 2005). To counter this trend, Malpass and Victory use the term 'modernisation' to describe "a consistent pattern and direction of change, which can be seen as a process of migration from the public sector towards the private market" (Malpass and Victory 2010, p. 3). Other studies have explored recent market-based reforms as a contested process of hybridization, blending public and private resources and action logics. Not-for-profits active as social enterprises are analysed as hybrid organisations, accountable to multiple audiences and subject to conflicting institutional pressures, leading to problems of legitimacy (Czischke et al. 2012; Mullins et al. 2012; Blessing 2012).

Concepts function as both classificatory containers for data and as theoretical lenses that illuminate or obscure certain issues (Sartori 1970). The concepts we

recycle may come loaded with implicit theories that shape our perceptions (Kemeny 1995, p. xiv). Where the object of study is a process of change, the way it is conceptualised may determine potential to identify causal relationships and hypothesise possible future patterns of development. A fundamental consideration concerns whether change is conceptualised as linear, emphasising the uniqueness of events as time moves forward; or as cyclical in nature, emphasising the lawfulness of patterns repeating, or pendulums swinging (see Gould 1987, p. 191).

This paper addresses the problem of conceptualising change in social housing provision. Via an empirical discussion based in English and Dutch housing markets, it explores different approaches, contrasting a linear view of change; Malpass and Victory's 'modernisation' with an alternative approach that takes into account the hybrid nature of new arrangements and the challenges faced by providers in maintaining legitimacy. Rather than attempting to capture all aspects of market-based reforms, the discussion zooms in on the enablement of not-for-profits as social enterprises as a crucial aspect of social housing's apparent movement into market. Following Suchman (1995) and Dart (2004), it uses organisational legitimacy as a lens to interpret and help explain their trajectories. To make visible issues of organisational legitimacy, it examines debate over legal status, which shapes accountabilities and thus impacts other aspects of organisational legitimacy. Policy reforms, political speeches, media coverage and several semi-structured expert interviews with industry leaders in each setting are also drawn upon.

Part One considers criteria for effective conceptualisation, outlines the modernisation approach, and expands on the notion of organisational legitimacy. Part Two describes reforms that gradually enabled housing associations in England and the Netherlands to act as social enterprises, using ideal types of policy settings to contextualise the comparison. Part Three examines indicators of their organisational legitimacy. It then draws some insights into how problems of legitimacy may shape their trajectories over time. The final section revisits the notion of 'modernisation' in light of the empirical discussion and reflects on the conceptual challenges posed by market-based reforms.

Not-for-profit organisational forms and the institutional contexts they operate within vary both within and across national settings. To enable international comparison, not-for-profits are here defined in terms of a 'family resemblance' category membership, which entails a set of analytically important defining attributes that may not all be present in every instance (Collier and Mahon 1993). These include private legal status, a legal constraint on the distribution of dividends to owners, a defined mission, and in most cases, access to direct or indirect forms of state support. Where not-for-profits receive mission-oriented state support, public accountabilities tend to follow, from formal regulations to informal societal expectations (Blessing 2012).

'Social enterprise', has been described as a "fluid concept which is continually re-negotiated by different actors competing for policy attention and resources" (Teasdale 2012, p. 101), resulting in vague conceptualizations and a loss of connotative precision. Dart draws a useful distinction between readings of social enterprise focusing on frame-breaking and innovation and those emphasising market-based solutions and business-like models (Dart 2004, p. 412). Here, the

focus is on the latter reading, with social enterprise stripped to two basic attributes, 'the primacy of social aims and the centrality of trading' as a means to achieve them (Teasdale 2012, p. 101) (see also Dart 2004, p. 414).

In this discussion, the 'mobilisation' of housing associations as 'social enterprises' refers to policy reforms that gradually enable them to undertake commercial activities and redirect profits into projects consistent with their respective social missions. While some social enterprises work independently of the state, housing associations, as key actors in national housing strategies, are co-opted as agents of state policy (Mullins and Pawson 2010), and may thus be characterised as working 'across state and market'. However, qualifications apply. The participation of housing associations in housing market activities varies markedly. Some undertake major urban renewal projects, manage both social and commercial tenancies, and develop new dwellings for the commercial market. Others focus more on social tenancies, maintaining and redeveloping stock where needed. Even where commercial cross subsidisation is crucial to financial continuity, housing associations may not identify as social enterprises. The definition of social enterprise as an activity practiced by a variety of organisations thus becomes a useful one (Teasdale 2012).

Part One: Conceptualizing Change in Social Housing Provision

This section considers some criteria for effective concept development and outlines two contrasting approaches to understanding market-based reforms of social housing.

Criteria for Effective Concept Development

As criteria for conceptual success, Salamon and Anheier put forward e*conomy, significance* and *predictive powers* (Salamon and Anheier 1992, p. 136, following Deutsch 1963). 'Economy' refers to the ability to capture the essence of a phenomenon while staying true to its form. 'Significance' signals resonance with adjacent concepts in the field, highlighting crucial issues and connecting to debates. Explanatory or 'predictive powers' are achieved by concepts that reveal causal relations, generate hypotheses, and possess enough 'rigour' to travel across new cases (p. 136). These criteria are used to guide analysis of the two contrasting approaches to conceptualising change in Part Three of this paper.

The Modernisation Perspective

As an approach to understanding change that may be "of wider applicability" (Malpass and Victory 2010, p. 3), Malpass and Victory describe 'modernisation' as a series of developments in governance, finance and other areas wherein English social housing has 'migrated' in a consistent direction from the public sector towards the private market (p. 1). The process encompasses the role of the social sector in the housing system, the "nature of the organisations procuring, owning and managing the dwellings" (p. 6), governance and finance, and tenure arrangements. Reforms in

the 1970s and 1980s made not-for-profits owners of assets, enabling them to raise private loans, develop more housing and become major providers. Simultaneously, local authorities were repositioned as enablers rather than providers (pp. 9–11). The authors distinguish between a 'mid-20th century public housing model' defined by broad access, local governance, bureaucratic allocation, and public ownership, management and finance, and a contemporary 'social housing' model based on restricted access, mixed ownership and finance, commercial cross-subsidy, and centralised regulation. While public housing tenants are 'passive recipients', social housing tenants have become 'active consumers' (p. 7).

Alternately describing 'modernisation' as a "conceptual approach to social housing in market economies" (p. 3), an "analytical method" (p. 3) for retrospectively understanding policy reforms and a "positive term for the future" (p. 4), the authors appear to claim both explanatory and classificatory powers. Yet they also make disclaimers. Their use of the term "should not be interpreted as endorsing any claims made by governments that equate policy modernisation with improvement" (p. 5). Nor does it "imply a conscious strategy" (p. 5). They use 'modernisation' "in its everyday sense to refer to processes of keeping up to date with current expectations and ways of doing things" (p. 5). The term thus implies a state of both coherence and legitimacy. Central to 'modernization' is the notion of a new era in provision (p. 7) based on unidirectional movement away from the public realm, towards a private market context. Change has a "ratchet effect", with "no going back" (p. 9). The authors envision two potential future scenarios: a continuation of the status quo of mixed provision, and a full-blown privatisation in which private for-profits provide social housing.

Legitimacy as an Approach to the Study of Social Enterprise

Echoing the sense of coherence conveyed by modernisation, policy rhetoric promoting social enterprise in public service provision often takes a rationalist tone, focusing on efficiency and effectiveness. Social enterprise becomes a rational adaptation to modern problems such as the need to raise private capital for social projects (see Cameron 2011). This line of analysis, well-represented in academic studies, has come under criticism for ignoring the "wider societal, ideological and political dynamics" (Dart 2004, pp. 411–412) of social enterprise in the not-for-profit sector. Via an institutional approach based on the concept of legitimacy as an organizational goal (p. 415), Dart sets out to explore these overlooked dynamics.

While the concept of legitimacy is well used in studies of the not-for-profit sector, it is not always well-defined. Salamon, for example, describes a "crisis of legitimacy" (Salamon 1999, p. 15) that occurred as US not-for-profits addressed funding cutbacks by taking on large contracts and professionalising. This transgressed the norms governing their 'voluntary' social role, leading to a further loss of support. While Salamon prescribes strategies for repairing the sector's image (p. 5), he neither defines legitimacy, nor makes explicit its causal operation. Dart takes a more structured approach, making use of Suchman's typology of legitimacy to consider how societal and stakeholder expectations have shaped the origins and evolution of not-for-profits acting as social enterprises. Legitimacy is defined as: "*a*

generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions" (Suchman 1995, p. 574). It is seen as the means by which organisations obtain resources; with managers following external cues to conform to societal expectations and attain legitimacy, from which benefits flow (Dart 2004, p. 415). Thus, while cultural norms are "fundamentally constitutive of organizational life" (Suchman 1995, p. 577), the approach also leaves room for actors to pursue legitimation- or 'delegitimation' strategies (p. 586).

Suchman outlines three types of organisational legitimacy. The pragmatic variety is based on audience self-interest wherein stakeholders judge the organisation to be legitimate when their needs are met. Moral legitimacy rests on broader societal judgements about whether a given procedure, structure, output or activity is 'the right thing'. Cognitive legitimacy, the most powerful source, is based on comprehensibility and taken-for-grantedness (pp. 579–583). Suchman also distinguishes strategies for *gaining, maintaining* and *repairing* legitimacy. To achieve the latter, for example, organizations must 'construct a firewall' between audience assessments of past actions and those of on-going organisational qualities by offering normalising accounts or restructuring operations (p. 597). While Dart considers how all three types of legitimacy impact the trajectories of not-for-profits active as social enterprises, he finds in moral legitimacy a means to explain their rise as connected to the growing salience of pro-market ideological values (Dart 2004, p. 411).

For Suchman, managing legitimacy is complicated. Organisations pursuing pragmatic legitimacy by meeting key stakeholder needs may undermine their own moral legitimacy. Likewise, using explicit public debate to pursue moral legitimacy may undermine cognitive legitimacy (Suchman 1995, pp. 584–5). A further complication lies in the fact that "audiences are often heterogeneous", making it impossible to satisfy all factions, and leaving the organisation vulnerable to changes in constituent demands (p. 594). As Salamon's crisis of legitimacy suggests, the challenges of audience heterogeneity may be intensified within the not-for-profit sector, with failure to fulfil conflicting audience expectations potentially leading to a loss of legitimacy. Could these challenges be further intensified when not-for-profits become active as government co-opted social enterprises in the housing market?

Contrary to the frame of 'rational adaptation' and coherent modernisation, Jacobs maintains that government and commerce are different and often conflicting systems, best kept separate lest 'monstrous hybrids' emerge when they are combined (Jacobs 1992). Following this logic, a number of comparative housing studies use the concept of 'hybridity' to understand market-based reforms of social housing, focusing on the trajectories of housing associations working as both private financial entities and as agents of state policy (Czischke et al. 2012; Blessing 2012; Gilmour and Milligan 2012). Mullins characterises English housing associations as subject to the "competing institutional logics" of "local accountability" and "scale and efficiency" in market operations (Mullins 2006, p. 6). Blessing finds that in Australia and the Netherlands, not-for-profit housing providers are alternately viewed as 'magical' blends of social responsibility and commercial acumen, and as 'monstrous' transgressions of public trust and market rules. While hybrid status confers advantages, the requirements of public stewardship and commercial

competition conflict. In fulfilling one set of requirements, social enterprises may transgress the norms governing the other, leading to problems of legitimacy and reform (Blessing 2012).

While these studies touch on problems of legitimacy, the concept itself remains underexplored and inadequately defined with regard to the hybrid tasks of housing associations. Following Dart, and making use of Suchman's typology, the lens of legitimacy is here used to look beyond efficiency and rational adaptation and to better understand their trajectories as part of broader market-based reforms. Unlike modernisation, the legitimacy perspective does not set out to model multi-causal processes of change, but rather to generate insights into the nature and direction of change over time, to identify potential future trajectories, and to consider the conceptual challenges therein.

Part Two: Market-Based Social Housing Reforms in England and the Netherlands

Policy Contexts

Social housing provision spans complex policy networks across public and private law, and within broader national welfare state configurations. The following discussion of English and Dutch systems uses opposing ideal-types of housing policies as coordinates against which to track change in complex and dynamic national systems of housing provision (see Bengtsson 2001, p. 71). However, these national systems are also seen as "open and integrated with a range of international variables" (Oxley 2001, p. 104).

Bengtsson's 'universal' and 'selective' 'logics of housing provision' model a relationship between the *breadth* of intervention and the national understanding of a 'right to housing' (Bengtsson 2001, p. 262). The Netherlands and Sweden have typically been classed as 'universal' policy contexts based on solidarity, with citizens contributing to, or drawing benefits from the system according to need (p. 266). Here, the notion of a right to housing takes the form of a legitimate collective expectation of decent housing provided through the general housing market. When the general market fails to provide, however, it may be difficult for an individual to validate this right. In contrast, 'selective' policy, typified by Great Britain and the USA, limits access to those in poverty, consistent with charity. In Great Britain (though not the US), a legalistic concept of individual minimum rights applies in the form of a requirement for municipalities to house an 'unintentionally' homeless individual. Significantly for this discussion, both types of policy may rely on bureaucratic or market-based forms of distribution. However, Bengtsson finds strong contradictions in a 'selective market policy' (p. 271).

English and Dutch Tenure Distribution

Not-for-profit housing associations now own approximately 9.6 % of all housing in England, with a further 7.9 % owned by local authorities (Pawson and Wilcox

2012), and known as 'council housing'. The 'social housing' sector, which includes council housing, is typically labelled 'selective', with 66 % of tenancies classed as either unemployed or economically inactive. However, at 17.5 % of all dwellings, the social sector is larger than the selective ideal type would suggest. State policy has long promoted owner-occupation, which rose from 52.5 % in 1971, to a peak of 70 % in 2002, boosted by mass discounted sales to social housing tenants. Since the early 2000s, homeownership has declined to around 65 %, while commercial rental has grown from around 10 to 17.4 % (Pawson and Wilcox 2012).

While the Dutch housing policy context is often classed as 'universal', and the rental market, 'unitary' (see Kemeny et al. 2005; Bengtsson 2001) both are undergoing transition. Growth in owner-occupation from around 42 % in 1980 to 60 % of all dwellings in 2012 was underpinned by a generous mortgage interest deduction scheme, now being phased out. While not-for-profit housing associations are the primary owners of social housing, dwellings are classed as social on the basis of (regulated) rent level, rather than ownership. Social housing peaked at 40 % in the late 1980s, and now makes up makes up 33 % of all housing. Correspondingly, commercial rental declined from around 20 % of housing in the early 1980s to only 7 % in 2012 (Vandevyvere and Zenthöfer 2012). Significantly for this discussion, social and commercial rental sectors are larger in tight, strategically important urban housing markets in both national settings. Table 1 provides a current overview of the various tenures in England and the Netherlands, as well as in their largest cities.[1]

The Establishment of English Housing Associations as Social-Enterprises

English social housing provision originated in the private sector, with the wealthy classes establishing philanthropic trusts from the mid-nineteenth century to address slum conditions spawned by industrialisation (McDermont 2010, p. 23; Mullins and Pawson 2010, p. 198). The Housing and Town Planning Act of 1909 enabled access to public loans for limited profit 'public utility' companies. Thus, a range of 'housing societies' operating on a not-for-profit or limited profit basis gradually took on niche roles in the housing market (Pawson 2006, p. 769; McDermont 2010, p. 29). In 1933, as slum conditions persisted, central government sought to provide housing for the working classes through the private market, "without public charge"

Table 1 English and Dutch housing tenure overview (2011), showing major cities

	England	London	NL	Amsterdam
Council rental	7.9 %	13.2 %	n/a	n/a
Social rental (HAs)	9.6 %	10.5 %	33 %	47 %
Commercial rental	17.5 %	25.5 %	7 %	26.5 %
Owner-occupied	65.2 %	49 %	60 %	24.4 %

[1] Sources: Pawson and (2012), Gemeente, Amsterdam, 2013, Vandevyvere and Zenthöfer (2012), Greater London Authority, 2013 (All figures for 2010 or 2011).

(p. 23). While growth of the not-for-profit sector was the most morally legitimate solution for a government seeking to avoid market intervention, efforts to establish a representative body and financing authority for the not-for-profit sector met local opposition from councils, private landlords and house builders. In 1935, the Federation of Housing Societies was established without the desired financing body, leaving providers reliant on discretionary municipal support. Subsidies for council housing had also been available from 1919, and central government gradually equipped local authorities as housing providers.

By the end of the Second World War, concern over housing construction had focused on its role as a driver of economic development (McDermont 2010, p. 26). While not-for-profits were still seeking "a proper place" in the housing market (p. 22), need for new construction lent pragmatic legitimacy to the cause of growing the sector. The Federation was adamant that housing associations should not be classified as private entities, for fear of losing state subsidies vital to their work (p. 27). While local authorities were major providers, government supported intensification of the role of housing societies, and in 1946, gave them equal eligibility for subsidies. During the early post-war years, centrally imposed rent restrictions were removed, which helped to foster a new entrepreneurial side to the sector's identity.

In the following decades, bureaucratically planned public housing became the dominant social tenure. A politically risky housing shortage prompted mass production. While Council housing met need and thus attained pragmatic legitimacy, poor construction standards laid the foundations for future difficulties (Pawson 2006, p. 768). Not-for-profits continued to provide for specific groups such as elderly people and migrant workers. In 1964, the Conservative central government established the Housing Corporation as a public regulator and funding body to grow the not-for-profit sector. The extension of its powers via the Housing Act 1974 initiated the sequence of events that comprise Malpass and Victory's 'modernisation'. According to McDermont, "the Act was about attaining legitimacy for a major paradigm shift in housing policy…via a third sector" (p. 88). A new public grant system enabled housing associations to amass substantial assets and develop housing (p. 37 and 55).

While they remained "essentially publicly financed bodies insulated from commercial risk" (Mullins and Pawson 2010, p. 201), housing associations gained moral legitimacy in the eyes of some stakeholders as a centrepiece of Thatcher Government reforms from the early 1980s. Retrospectively defined as 'New Public Management', these reforms aimed to instil private sector values and practices into public service provision, and to downsize the public realm. Privatisation came in two forms, the first was the 'Right to Buy' programme of discounted council housing sales to tenants, which continued through the 1990s and 2000s. From the late 1980s, a rhetorical shift recasting local authorities as enablers rather than providers signalled a second trajectory of privatisation since described as "the outstanding example of a mass take-over of state services by the voluntary sector in our times" (Purkis 2010, p. 3).

With new financial powers over local authorities, ministers undermined their capacity to strategically manage housing. Newly classed as 'private' bodies, the 1988 Housing Act enabled housing associations to borrow privately, outside public

debt (Pawson 2006). This "translation of the sector from public to private" (McDermont 2010, p. 112) set the context for massive transfers of public housing to the not-for-profit sector, estimated at 1.5 million homes by 2003. This process was controversial from its inception, with opposition spanning diverse ideological positions (Pawson and Mullins 2010 p. 106). Requiring a majority tenant 'yes' vote to pass, stock transfers were propelled by a modernisation agenda ostensibly based on consumer choice. While policy rhetoric framed housing associations as a new morally legitimate market-based solution, public housing was framed as 'out-dated'. 'Choice' over transfers often amounted to a "take-it-or-leave-it proposal" with incentives to transfer (p. 109). Despite these incentives, between 20 and 25 % of English tenants involved in stock transfers have voted against it (Defend Council Housing 2012).

By building up their asset base and promoting them as preferred providers, which at times, has involved implicit guarantees, government empowered housing associations to raise private loans and expand into profit-making activities. They could thus blend subsidies with rent, sales and property development revenues. This effectively relocated major components of social housing development into the private sector. Despite efforts to involve for-profit providers, housing associations remained the major developers. By 2003, estimates of borrowings approaching £100 billion revealed a significant flow of private capital into social projects (Mullins and Pawson 2010). In addition to bank loans, bond markets and new structures for private equity investment gradually developed. While this foray into social enterprise was a game-changer for social housing provision, it also helped support private housing construction and urban redevelopment. However not all housing associations branched out into commercial activities. Many stuck to housing disadvantaged tenants and providing support services. They relied on rents, social housing grant and housing benefit paid by government to supplement social rents (Purkis 2010).

The Establishment of Dutch Social-Enterprises in the Housing Market

True to the Dutch constitution, which sets out 'the promotion of adequate housing opportunities' as 'the subject of government care' (Article 22, Clause 2), the Dutch government has generally acted as a promoter, rather than as a direct provider of housing. Private not-for-profit social housing emerged from a pillarised system of political and religious groups that provided housing, labour unions and schools outside formal structures of government (Salet 1999). The consolidation of this approach at the turn of the twentieth century had broad support voiced on both pragmatic and moral grounds. Commercial operators sought to keep the state out of the market and religious factions sought to preserve their social spheres of influence. Top-down charitable initiatives by a bourgeoisie dependent on preserving class structures, and bottom up efforts by workers' organizations were further sources of support (Harloe 1995, pp. 25–29).

Rooted in corporatism and consensus between organised interest groups, the institutionalisation of housing associations via the Housing Act (Woningwet) of 1901 was thus widely viewed as more legitimate than direct state provision. While

Dutch municipalities also established housing providers, some later transformed into housing associations, which were favoured by central government policy (Milligan 2003, p. 86). So began a hybrid system wherein financial and legal privileges were allocated by government in exchange for the fulfilment of social tasks. When a severe post Second World War housing shortage prompted rent regulation (Salet 1999), scope for legitimate state intervention expanded, and government evoked the norm of solidarity; drawing the sector into the public realm for large-scale construction of centrally planned housing. State support protected housing associations from market competition and bound them to local or regional operations where they negotiated their own rules of play (Salet 1999). By the mid 1980s, as housing policy began to focus on homeownership, not-for-profits were the primary producers of housing (Kemeny et al. 2005, p. 869). Establishment of the 'Social Housing Guarantee Fund' (WSW) and the Central Fund for Housing (CFV) supported the acquisition of private finance, and enabled a solidarity approach to individual financial problems.

While housing associations were firmly institutionalised as major providers by the 1980s, Dutch social housing provision did not really occur in a private market context until the following decade. This shift formed part of a broader legitimation process regarding the size and scope of government that spanned housing, higher education, and other areas. While the burden of rising operating subsidies lent significant pragmatic legitimacy to a private market solution, the shift was championed in moral terms, within agendas of "privatisation, de-regulation and decentralisation" (van Kempen and Priemus 2002, p. 242). An exchange was negotiated wherein the value of housing associations' outstanding government loans was written-off against the value of future property subsidy commitments, making housing associations the owners of their properties (Priemus 2008). With this critical shift, "the genie was out of the bottle" (Public sector stakeholder 2011). In 1998, the CFV expanded its role to include financial supervision of the industry. Consistent with the moral imperative of marketization, reforms introduced internal competition amongst housing associations and a market-sensitive system of rent differentiation (Kemeny et al. 2005).

In the years that followed, housing associations benefited from low interest rates, rising rent levels and soaring property values, emerging into this century as a network of asset-rich social enterprises. They diversified their activities, advantageously combining commercial risk taking with the security of state-backed collective resources in what is often referred to as a 'revolving fund' model. In addition to managing tenancies, they played a major part in new housing construction and financed and carried out large-scale urban redevelopment. Somewhat paradoxically, they drew legitimacy both from pro-market values, and from the logic of 'solidarity', expressed in terms of socio-spatial cohesion, This shift into a market context has been described a clearly articulated legitimation process based on "the retreat of Central Government from the housing market" (van Kempen and Priemus 2002, p. 242).

Part Three: Exploring the Legitimacy of Social Enterprises in the Housing Market

This section considers indicators of the organisational legitimacy of English and Dutch housing associations from the perspectives of the multiple audiences they impact. To bring some of these perspectives to light and consider different types of legitimacy, it first focuses on debate over their legal status, and then considers their public image, their level of political support, and their future role in the housing market.

English Social Enterprises

Legal Status

As Part Two of this paper revealed, "the positioning of housing associations on the public–private divide" (McDermont 2010, p. 27) has been crucial to the development of the English social housing sector. For housing associations, public or private status, as distinct from the consideration of organisational form, has been a highly pragmatic consideration. When money flowed from the public purse, they lobbied for public status. When the 1988 Housing Act enabled private borrowing, they were willingly recast as private entities. However, in the eyes of some stakeholders, the legal status of housing associations is a moral concern. In recent years, debate over this issue has reached the Courts, with rulings rebranding them as public bodies for the purposes of particular activities and pieces of legislation.

In the name of commercial competition, a 2004 EU ruling obliged English housing associations to follow EU public procurement directives, thus subjecting them to greater levels of transparency and accountability. Calls to account on the basis of housing associations' social functions aired concerns that movement into the private sector had compromised accountability to tenants and other stakeholders (see Donoghue v. Poplar 2001; Leonard Cheshire Foundation 2001; R vs. Servite Houses 2001). Most significantly, in Weaver vs. London and Quadrant Housing Trust (2008), a social housing tenant challenged her eviction in the UK High Court of Justice, citing a breach of her human rights. Her case rested on three provisions. First, a right to respect for one's "private and family life, his home and his correspondence" lay within the European Convention on Human Rights (Article 8) (Council of Europe 2010). Second, the UK Human Rights Act 1998 requires public authorities, and 'any person performing functions of a public nature' to uphold the aforementioned Convention (see Section 6 (3) (b)). Section 7 of the same Act allows individuals to bring public authorities failing to uphold the Convention to court. London and Quadrant Housing Trust (LQHT), the landlord in question, is a not-for-profit housing association with over 67,000 homes.

The Weaver case centred on the claim that with regard to the termination of tenancies, the landlord was "a 'hybrid' or 'functional' *public* authority under the Human Rights Act (Land 2008). While the Court allowed the eviction, the claim of public status was upheld, despite the fact that LQHT is a private entity. The ruling

considered LQHT's undertaking of functions of a public nature, its not-for-profit status and the permeation of the not-for-profit housing sector by state control, its ownership of ex-government stock, and its receipt of public subsidies. In 2009, this decision was upheld on appeal (Royal Courts of Justice 2009, Sections 10–14). The Court stated; "the Trust is a hybrid public authority and the act of terminating a tenancy is not a private act" (Section 84). It described the "provision of subsidised housing" as a "governmental", function, adding, "almost by definition, it is the antithesis of a private commercial activity" (Section 70). Acknowledging that none of these factors in isolation provided a basis for the ruling, the Court found "sufficient public flavour" within LQHT's role to warrant (hybrid) public status (Section 72). When the Supreme Court declined a further appeal in November 2009, the Weaver ruling became law; yet anticipation ran high that it would soon be challenged (Bryant 2009).

While the Weaver ruling did not officially classify housing associations as public bodies (Bryant 2009), it conferred upon them the ambiguous, in-between status of 'hybrid public bodies' with regard to tasks considered to be public in nature by the Courts. Although the use of the term 'hybrid' may suggest intermediate status, the implication was that housing associations would be considered 'public bodies' for some functions and not others. The Federation of Housing Associations identified numerous potential implications, including greater levels of public accountability, further lawsuits and judicial review of everyday decisions, and a consequent need for thicker paper trails (Bryant 2009). A major concern; serious enough to prompt investigation by the Council of Mortgage Lenders, was that Housing Associations could be deemed public for national accountancy purposes and placed under public borrowing restrictions (Hilditch 2009). Such an outcome would reverse the liberalisation of funding arrangements under the Housing Act 1988, effectively deporting the social housing sector from a market context. A subsequent High Court ruling that Weaver also applied to decisions about exchange of tenancies (see R. (McIntyre) v. Gentoo Group Ltd), provoked claims that "registered housing providers are increasingly moving from private to public status" (Stephens 2010). However in 2012, the Manchester County Court ruled that a housing association was not subject to the Human Rights Convention in relation to disciplinary action against employees (see Smith v. Trafford Housing Trust).

The Weaver ruling brings to light two distinct and opposing agendas regarding the legal status of housing associations. Government seeking to outsource its functions, and housing associations pursuing social missions via market means rely on private legal status. Without it, the current system based on social enterprises combining state support and private capital could not function. A different perspective, shared by stakeholders against stock transfer, human rights groups, and certain court officials, follows the moral logic that in calling to account bodies invested with social tasks, "the exercise of rights in the public domain becomes a critical tool" (McDermont 2010, p. 165). A recent Australian ruling, which closely followed Weaver in classing housing associations as public bodies for human rights purposes, stated "Where private entities exercise functions of a public nature on behalf of the State or a public authority, the functions come with unavoidable human rights responsibilities for the entity itself". (Metro West v Sudi [Residential

Tenancies, Victoria Australia], Section 123, 2009). Thus viewed, morally legitimate provision of social services requires 'responsible' public status.

This deep-set clash of interests makes institutionalising housing associations as social enterprises a complex and risky endeavour. True to Bengtsson's observations, a 'selective market' regime emerges as fraught with contradictions, with legalistically enforced individual rights leading to unintended complications (Bengtsson 2001). Post-Weaver, the National Housing Federation cautioned that any approach to regulation enabling governmental control over housing associations may cause them to be regarded by the Courts as inherently 'public' in nature, and "they will, in effect have been nationalized" (Orr 2010). In 2012, this same concern led government officials to avoid giving housing associations statutory powers to tackle illegal subletting, for fear of further influencing their legal status (Lloyd 2012a).

Public Image, Political Support and Future Role in the Housing Market

As mission-oriented not-for-profits, some reliant on charitable status, housing associations rely heavily on a positive public image. From 2005, fear of declining support prompted a sector-based PR campaign (Purkis 2010, p. 16). Despite movement into the private realm, the policy-propelled label of 'social housing' still does not seem to have achieved cognitive legitimacy, with media and members of the public still using the term 'council housing' in both matter-of-fact and pejorative ways (see Daily Mail Reporter 2012). As discussed in Part Two, opposition to 'privatization' of council housing, along with calls to bring provision back to the public sector, has been unrelenting. Political support has been variable, with opponents drawing on *"a common characterisation of housing associations…(as)…complacent, lethargic organisations contentedly suckling from the public purse"* (Inside Housing 2011) in attempts to de-legitimate them (see also Purkis 2010, p. 16).

Recent policy changes call into question the stability of current institutional configurations. Amidst reforms under the moral guise of 'localism', a new national housing strategy describes traditional social housing as 'no longer sustainable' (HM Government 2011, p. 23). An alternative model, the Affordable Homes Programme, significantly reduces average public grant to around 14 % of average dwelling cost, necessitating reliance on a mix of private finance, sales and benefits drawn from mature stock (Pawson and Wilcox 2012, p. 74; Not-for-profit sector stakeholder interview 2013). A new rent regime allows providers to charge up to 80 % of market rates for newbuild properties and some re-lets (p. 74), heightening reliance on precarious state housing benefit. A revised regulatory approach separates 'proactive' economic regulation from weaker 'reactive' 'consumer protection', based on intervention 'only in cases of serious service failures'. The new regulator, the Homes and Communities agency, has been criticised as under-resourced. Accompanying these changes is a revised moral ideological spin. Social housing is to provide a "springboard to social mobility" (HM Government 2011, p. ix), with providers given discretion to prioritise "hard working families" over unemployed people, and to replace lifelong tenure with shorter terms (DCLG 2012).

While it may appear paradoxical in a time of financial crisis, new policy configurations reinforce the entrepreneurial nature of housing associations' role, as state support and regulatory control is pulled back. The model for future social housing development involves unprecedented levels of commercial risk coupled with softer regulation. Early implementation of 'Affordable Homes', however, has brought to light contradictions within social enterprise. First, the foray into mainstream rental carries with it a social stigma. Despite hopes that the higher rents charged on 'Affordable Homes' would allow higher valuations and increase borrowing capacity, major lenders have indicated they will be valued as traditional social housing (Brown 2011). Second, concerns have been raised that the new funding model will push up housing associations' gearing ratios over time, undermining their long-term viability (Pawson and 2012, p. 76). Third, while housing associations registered as charities are permitted to undertake commercial ventures to cross-subsidise social projects, housing under the 'Affordable Rents' model constitutes a grey area requiring legal advice, lest they have their charitable status revoked. Lastly, Councils have withheld support for some 'Affordable Homes' schemes on the grounds that they fall short of housing associations' social goals (Stakeholder interviews- not-for-profit and public sector 2013).

A more recent development in the trajectory of English housing associations expands scope for commercial risk taking even further. Amidst forecasts that an entire generation may be permanently stuck in the commercial rental market, a politically risky shortage of rental opportunities, intensified in economically significant urban areas, saw new Housing Minister Mark Prisk urge housing associations in late 2012 to "take that leap of faith" and enter the commercial rental market (Prisk 2012). Following a recent government led investigation into potential for increasing institutional investment in the rental sector, and the emergence of new ventures such as housing association Genesis' £125 m deal with investor M&G for east-London rental housing, state policymakers have seized on a new vision. Experienced and mission-oriented housing associations will form stable, long-term relationships with institutional investors to boost supply and bring up standards in the commercial rental market.

A recent policy report "Social hearted, commercially minded" heralds a new, more entrepreneurial phase for housing associations (Chevin 2013). Yet the opinions of industry leaders differ as to whether this development constitutes a transgression of their social roots or a welcome opportunity to increase cross subsidisation. One bone of contention concerns the realisation that "*we can't see profit without churn*" (Stakeholder interviews- not-for-profit and public sector 2013); meaning that current development models only show profit through capital gain, with the implication that housing associations would strategically divest some developments after 5–7 years. Opinions differ as to whether this is compatible with housing associations' long- term outlook and social mission. A further regulatory debate turns on how social assets may be securely ring-fenced to prevent loss in the event of commercial bankruptcy. Lacking a solidarity fund like their Dutch counterparts, housing associations have until now coped with these threats through rescue-mergers. Yet heightened risks could bring new challenges (Stakeholder interviews- not-for-profit and public sector 2013).

Dutch Social Enterprises

Legal Status

If the institution of social enterprise were formally codified in law via a separate status in-between between public and private, could this boost stability in the regulatory environment and provide assurance for strategic planning and stakeholder outcomes? Dutch not-for-profit sector stakeholders, including housing associations, raised this question repeatedly in the early 2000s. By 2006, Government had agreed that growth of the not-for-profit sector called for a new legal form for social-enterprises, spanning health, education and housing. This led to a public consultation for the Social Enterprise Bill [Maatschappelijke Onderneming (MO)], which would formally institute standardised decision-making structures and accountability measures within a new form of social company classed legally as *in-between* public and private. Decision-making would occur via a supervisory stakeholder board (Dutch Ministry of Justice 2009). From a government perspective, the MO aimed to strengthen internal governance, support user-centred relationships, minimise state involvement, and boost the legitimacy of social services. Not-for profit social enterprises sought to morally legitimize their hybrid role, harmonise regulation across health, housing and education, and escape the burden of multiple accountabilities. Transaction costs were high, red tape was thick, and uncertainty over legal status hampered strategic planning (Stakeholder interviews- not-for-profit and public sector 2009).

As debate ensued over the MO, it soon became clear that government and not-for-profit stakeholders had fundamentally different visions. For not-for-profits, the proposed legal form was cumbersome and too uniform. Housing associations in particular felt that existing practices of self-regulation were adequate. Moreover, in the context of compliance with European Competition Policy, they feared that an intermediate status would lead to the sector being brought under "lengthy and costly" public procurement requirements (Stakeholder interviews- not-for-profit and public sector 2009). A further bone of contention was government's proposal that the new legal status be obligatory for housing associations but voluntary for other social enterprises. Public policymakers felt that regulation was too soft, with inadequate checks and balances to protect client needs. "Nobody was happy with that Act…even the people who were at the start rather enthusiastic had at the end the feeling, 'well no, this isn't it'…." (Stakeholder interviews- not-for-profit and public sector 2011). In 2011, the Bill was formally withdrawn.

Most striking about this failed attempt at institutionalising hybrid legal status is the notion, reportedly shared by stakeholders across sectors, that an intermediate legal status would pave the way for harmonisation of the regulatory environment by replacing an awkward tangle of competing public and private requirements (Stakeholder interviews- not-for-profit and public sector 2009, 2011). While this may seem unrealistic, the notion of a middle field is consistent with the then Government's Christian Democratic ethos. Social and commercial functions were beneficially combined in practice within a system resembling the 'universal' policy

regime. Yet formalising a 'middle field' proved impossible. Each group of stake-holders had a different notion of how hybrid identity should be construed.

Public Image, Political Support, and Future Role in the Housing Market

In 2005, as housing markets strengthened, the European Commission notified the Dutch government that their social housing system was incompatible with the norms for commercial competition. It called for a more selective model directly linking housing associations' activities to socially disadvantaged households. This brought to a head a long-simmering national debate over the moral legitimacy of housing associations' commercial activity. In 2007, Dutch commercial real-estate investors filed a complaint with the European Commission over transgression of their 'level playing field'. In particular, they felt that the CFV (solidarity fund) advantaged housing associations in the property market. Subsequent policy proposals have sought to increase the moral legitimacy of the Dutch model from a commercial viewpoint by 'levelling the playing field', and segregating social and commercial activities (Priemus and Gruis 2011). Corporation tax exemptions were rolled back in 2008, and on January 1, 2011, social housing access was narrowed, with 90 % of new allocations to be earmarked for households with a maximum gross income of €33,000. This limit is now €34,229, regardless of household size, and remains controversial. With a broad range of households accommodated, solidarity still resonates in Dutch social housing. However, rent increases and moral admonitions for *scheefwoners*; signifying high-income tenants wasting a social resource, shows that the selective logic has taken root.

As in the English case, the movement of Dutch social housing into a private market context does not appear to have registered in the public consciousness. Housing associations "are private organizations…but if you ask the man on the street, he will say they are public" (Stakeholder interviews- not-for-profit and public sector 2009). Amidst periodic calls for social housing assets to be reclassified as 'public money', evidence has emerged of deep-set mistrust of the current system. A 2011 study of Dutch social enterprises found that compared to their counterparts in health and education, housing associations were negatively viewed (Geurtsen and Sprenger 2011, p. 20). In the context of unmet housing demand from the turn of the twenty-first century, pragmatic legitimacy waned and housing associations' control over massive social assets became controversial. Scandals over executive bonuses, risky invest-ments and budget blowouts on commercial projects transgressed the norms of solidarity and trust. This undermined the moral legitimacy of housing associations. While not representative of the sector as a whole, these events sparked negative media coverage and calls for increased transparency and improved public accountability.

"(Scandal) immediately affects the image of the sector, and that can be used by politicians to do what they want to do" (Stakeholder interviews- not-for-profit and public sector 2009). Until recently, industry funded 'self-regulation' was the dominant form of regulatory control, with the CFV undertaking financial monitoring and visitations by external consultants providing for quality control. In 2009, a suite of reforms proposed by the Minister of Housing made it clear that the large and sophisticated sector had revealed an 'Achilles heel' in internal control (van der Laan

2009). In early 2012, shocking revelations emerged that Vestia, the largest Dutch housing association, had been left over €2 billion out of pocket after failing to manage the risk on a €20bn investment in financial derivatives over 2010 and 2011 (Fearn and Allen 2012). This reignited a media storm, with calls to "put an end to a sick system" (Damen and Schutten 2012). Following the resignation of its CEO with a €3.5 million golden handshake, Vestia is now attempting to sell-off 30,000 homes in a stalled market, with English housing associations amongst interested parties (Brown 2012). Five other large housing associations are acting as guarantors, and the CFV, its solidarity mechanism previously untried, has furnished 'public funds' to the tune of €1bn. A lawsuit by Vestia against its creditors has been countered with claims that Vestia officials were commercially savvy enough to take responsibility for the fatal transactions.

In response, the Housing Act of July 2012 (Woningwet) clips housing associations' entrepreneurial wings. A requirement for the Ministry of Finance to approve any major investments shifts responsibility back to the state. Housing associations are banned from investing in complex financial products, unless they do so as 'non-professional' investors, which places a duty of care on financial intermediaries. Following a change of government, a new coalition agreement pledges to once again make housing associations subservient to local public interest by placing them under the direct control of municipalities. Despite a severely stalled housing market and mounting housing need in urban areas-Amsterdam in particular, housing associations are to be restricted to 'core' activities such as providing social housing and can no longer use the CFV for other purposes. A formal enquiry has been launched into their role. Underpinning these moral admonitions is a separate agenda about control of the equity in the social housing system. Sending new shockwaves through the sector, a landlords' levy applicable to owners of social properties is staged to take full effect in 2017. Takings will be used to meet EU austerity commitments. With costs partially met via significant income-based rent increases, it is estimated the levy will cost housing associations €1.7 billion annually by 2017 (Rijksoverheid 2012, p. 32).

With reforms that could paralyse the sector's commercial activities being rolled out in the context a stalled housing market, the Dutch social housing sector will now be prevented from undertaking many of the activities that previously enabled it to maintain pragmatic organisational legitimacy. At the same time, it has suffered a serious moral setback. This state of affairs has been conceptualised as a hubristic "shifting back in the Dutch social housing sector" (Nieboer and Gruis 2011, p. 1) amidst problems of legitimacy. Consistent with Suchman's reasoning, this loss of moral legitimacy has tangible effects, impacting housing associations' balance sheets and operations as well as personally affecting staff (Stakeholder interviews-not-for-profit and public sector 2013). The unique and internationally admired Dutch sector now faces a serious challenge in repairing moral legitimacy. Consistent with Suchman's observation that repair efforts require a 'firewall' between audience perceptions of past events and those of on-going organisational qualities, AEDES, the sector peak body has publically apologised for the sector's wrongdoings. The shamed Vestia has replaced leaders, acknowledged misdoings, and undergone organisational and regulatory restructuring.

Conclusions

This paper set out to explore the conceptual requirements of social housing reform, reviewing an existing approach to change and exploring an alternative approach. It focused on the role of English and Dutch housing associations; social landlords and major players in housing and urban development, for insights into the dynamics of market-based social housing reforms. Examination of the English and Dutch cases shows that in both national settings, the mobilisation of housing associations as social enterprises has been a project of state policy, with market-based reforms presented as a more rational, modern and morally legitimate way forward than direct state involvement in funding or provision. Yet these reforms also moved massive public assets out of the reach of direct government control. For some stakeholders, public responsibilities remain in uneasy orbit. In light of the empirical discussion, how does 'modernisation' fare as a conceptual approach to change in terms of its 'economy', its 'significance' and 'predictive powers'?

Malpass and Victory's two models of 'welfare state public housing' and 'post-welfare state social housing' (see p. 7) provide a useful and economical classificatory tool—comprehensive enough to capture many aspects of provision, yet general enough to support international comparison. Held up against the English 'post-welfare state social housing' model, the traditional Dutch model exhibits broader targeting, solidarity mechanisms, reliance on self-regulation, and dominance by private providers. Yet recent English reforms deviate from Malpass and Victory's 'residualised' social housing model. Do market-based reforms inevitably necessitate broader targeting to enable cross-subsidy and meet need?

In terms of 'significance', the ability to highlight crucial issues and connect to debates, 'modernisation' performs less convincingly. Through extensive use in 'progressive' policy rhetoric, and as a descriptor of "processes of keeping up to date with current expectations and ways of doing things" (Malpass and Victory 2010, pp. 4 and 5), the term has gathered connotations of coherence, progress and legitimacy. Qualifications that 'modernisation' has been contested and does not imply improvement (p. 5) amount to excess baggage, which compromises travelling power. However, without such qualifications, the positive connotations attached to 'modernisation' obscure controversies revealed by events such as the Weaver ruling, and debate over stock-transfer in England. While municipalities portray stock transfer as the modern pathway to viability (Defend Council Housing 2012), a British tenant activist frames things very differently; "(stock transfer) is turning the tide backwards. It's not 21st Century housing policy, it's 19th Century housing policy!" (EAST 2005).

As a tool for highlighting crucial relations and generating hypotheses, 'modernisation's' portrayal of movement between state and market as "a consistent direction of travel, operating a kind of ratchet, with no going back" (Malpass and Victory 2010, p. 9) becomes problematic. How might this conceptual approach accommodate movement back towards the state? Is the apparent 'shifting back' of the marketised Dutch sector a sign that it has now been *de-modernised*? If English housing associations practicing social enterprise should suffer similar setbacks due to losses, corruption, or complaints from competitors,

how would 'modernisation' capture such events? This 'blind spot' is apparent in Malpass and Victory's identification of two future scenarios for social housing; one based on movement further into market, and the other on continuation of the status quo (p. 15). No provision is made for a third scenario of movement back towards the public domain. This validates a well-aired grievance that public housing tends to be unfairly relegated to the past, even as the need for it continues (see EAST 2005).

Taking a legitimacy perspective on market-based reforms reveals a wider range of causal forces at work, including some that cannot be explained in terms of rational adaptation or efficiency. As an example of market-based reforms, examination of housing associations' trajectories reveals multiple issues of legitimacy, which in turn, mediate access to other more tangible resources. Back in the 1990s, reforms that enabled the Dutch sector to practice social enterprise were powered by a pro-market moral rationale that positioned government as a facilitator of market action. The current policy-propelled foray of the English sector into the commercial rental market faces a similar challenge in gaining both pragmatic and moral legitimacy for a new range of activities. How will new commercial rental products be branded? The Weaver ruling in England provides an example of a moral legitimation process that pulled housing associations back into the public realm for the purpose of certain social functions. Similarly the 'shifting back' of the Dutch sector has been a moral legitimation process propelled by both the commercial norm of a 'level playing field', and the notion of responsible public stewardship. This loss of moral legitimacy now appears to be overshadowing pragmatic considerations attached to meeting growing housing need.

In light of these developments, social housing reform is revealed as subject to a kind of 'lawfulness', a "weaving of identities in and out of the public and private spheres" (McDermont 2010, p. 33), driven by continuing renegotiation of competing interests and agendas. Efforts to gain, maintain, repair or destroy legitimacy have potential to shift aspects of social housing provision in either direction along the state/market axis. Understanding reforms thus requires a cyclical view of change. While this finding validates Suchman's and Dart's legitimacy perspective as a necessary step towards understanding change, it does not sufficiently explain these multi-causal processes. Clearly, fluctuating economic conditions and opportunities have just as much potential to drive movement across public and private spheres of action as political processes of legitimation.

A further finding is that some problems of legitimacy appear to stem from the hybridity of housing associations' work, exemplified by the practice of social enterprise, and impacting multiple audiences. Courtroom debate over the legal status of English housing associations, and failed efforts to create an in-between status for Dutch housing associations show that the public/private divide retains its organising power. Hybridity has proved difficult to codify in law. Thus, "you have commercial things and you have non-commercial things, but the thing in between can't be invented" (Dutch public sector stakeholder 2011). This leads to a final consideration- how does the subtle *cognitive* legitimacy apply to housing associations? For Suchman, this form requires taken-for-grantedness, so that it becomes unthinkable for things to be otherwise (Suchman 1995, p. 583). While Dart

found cognitive legitimacy to be of little use in understanding relatively new formations of social enterprise, Dutch housing associations go back a long way. It thus seems plausible that they may have gained cognitive legitimacy during times of stability. However, any such legitimacy they enjoyed in the past has now been shattered by scandal, debate and reform, and will be difficult to ever regain. As English housing associations deepen their hybridity through intensified entrepreneurial behaviour, they too have a long road ahead in attaining this most powerful form of legitimacy.

References

Bengtsson, B. (2001). Housing as a social right: Implications for welfare state theory. *Scandinavian Political Studies, 24*(4), 255–275.

Blessing, A. (2012). Magical or monstrous? Hybridity in social housing governance. *Housing Studies, 27*(2), 189–207.

Bratt, R. G. (2009). Challenges for non-profit housing organizations created by the private housing market. *Journal of Urban Affairs, 31*(1), 67–96.

Brown. (2011). Santander delivers borrowing blow, *Inside Housing*, 22/07/2011.

Brown. (2012). Dutch landlord financial crisis is a warning for UK, *Inside Housing*, 29/02/2012.

Bryant. (2009). 'National Housing Federation Neighbourhoods Briefing Note: Weaver v London & Quadrant Housing Trust Reference: NS.GN.2009.BR.21, Nov 2009.

Cameron, D. (2011). Speech on the Big Society, Cabinet Office and Prime Minister's Office, 10 Downing Street. https://www.gov.uk/government/speeches/pms-speech-on-big-society. Accessed 17 July 2013.

Chevin, D. (2013). *Social hearted, commercially minded- a report on tomorrow's housing associations.* New York: The Smith Institute.

Collier, D., & Mahon, J. (1993). Conceptual stretching revisited: Adapting categories in comparative analyses. *American Political Science Review, 87*(4), 845–855.

Czischke, D., Gruis, V., & Mullins, D. (2012). Conceptualising social enterprise in housing organisations. *Housing Studies, 27*(4), 2012.

Daily Mail Reporter. (2012). Prioritise 'hard-working families' over unemployed on social housing lists, ministers urge councils, in the *Daily Mail,* 27 June, 2012.

Damen, T., & Schutten, H. (2012). Weg met de woningcorporaties [Down with the housing associations], in *Het Parool*, 31st May, 2012. Accessed 18 July 2013.

Dart, R. (2004). The legitimacy of social enterprise. *Nonprofit Management and Leadership, 14*(4), 411–424.

Department for Communities and Local Government (DCLG). (2012). Grant Schapps: Housing help for military families, press notice, 29 June 2012.

Dutch Ministry of Justice. (2009). New regulations attractive to the semi-public sector, Press release, 08 July 2009.

Edinburgh Against Stock Transfer (EAST). (2005). *Smoke and Mirrors*-Documentary. http://glasgowresidents.wordpress.com/video/. Accessed 10 Jan 2013.

Fearn and Allen. (2012). Largest Dutch housing association faces mass sell-off of homes, *The Guardian*, 29 Feb 2012.

Geurtsen, A., & Sprenger, P.J. (2011) Accountability and Legitimacy of Social Enterprises; a Difficult but Inevitable Relationship, Paper submitted to the EGPA conference, 2011.

Gilmour, T., & Milligan, V. (2012). Let a hundred flowers bloom: Innovation and diversity in Australian not-for-profit housing organisations. *Housing Studies, 27*(4), 476–494.

Ginsburg, N. (2005). The privatisation of council housing. *Critical Social Policy, 25*(1), 115–135.

Gould, S. J. (1987). *Time's arrow, time's cycle*. Cambridge: Harvard University Press.

HM Government. (2011). *Laying the foundations: a housing strategy for England.* http://www.communities.gov.uk/publications/housing/housingstrategy2011. Accessed 21 Nov 2011.

Harloe, M. (1995). *The people's home? Social rented housing in Europe and America*. Oxford: Blackwell.

Hilditch, M. (2009) "Spot the Difference"- *Inside Housing*. http://www.insidehousing.co.uk/story.aspx?storycode=6505317.

Inside Housing. (2011). Opinion 'The Big Challenge', Feb 2011. http://www.insidehousing.co.uk/analysis/opinion/the-big-challenge/6513720.article.

Jacobs, J. (1992). *Systems of survival: A dialogue on the moral foundations of commerce and politics*. New York: Random House.

Kemeny, J. (1995). *From Public housing to the social market*. London: Routledge.

Kemeny, Kersloot, & Thalmann, (2005). Non-profit housing influencing, leading and dominating the unitary rental market: Three case studies. *Housing Studies, 20*(6), 855–872.

van Kempen, R., & Priemus, H. (2002). Revolution in social housing in the Netherlands: Possible effects of new housing policies. *Urban Studies, 39*(2), 237–253.

Laan E.E. van der. (2009). Voorstellen woningcorporatiestelsel [Proposals for the housing association system], Brief aan de Tweede Kamer, Ministerie van WWI, The Hague, June 12.

Lloyd. (2012a). Illegal sub-letting will be hard to prove, *Inside Housing,* 13 Jan 2012.

Malpass, P., & Victory, C. (2010). The modernisation of social housing in England. *International Journal of Housing Policy, 10*(1), 3–18.

McDermont, M. (2010). *Governing independence and expertise: The Business of Housing Associations*. Oregon: Oxford and Portland.

Milligan, V. (2003). How different? Comparing housing policies and housing affordability consequences for low income households in Australia and the Netherlands. *Netherlands Geographical Studies*, No. 318. Utrecht University, Utrecht.

Milligan, V., Gurran, N., Lawson, J., Phibbs, P., & Phillips, R. (2009). *Innovation in affordable housing in Australia*. Melbourne: Australian Housing and Urban Research Institute.

Mullins, D. (2006). Competing institutional logics, local accountability and scale and efficiency in an expanding non-profit housing sector. *Public Policy and Administration, 21*(3), 6–24.

Mullins, D., Czischke, D., & van Bortel, G. (2012). Exploring the meaning of hybridity and social enterprise in housing organisations. *Housing Studies, 27*(4), 405–417.

Mullins, D., & Pawson, H. (2010). Housing associations: Agents of policy or profits in disguise. In D. Billis (Ed.), *Hybrid organizations and the third sector: challenges for practice, theory and policy*. Basingstock: Palgrave MacMillan.

Nieboer, N. & Gruis, V. (2011). Shifting back in the Dutch social housing sector, Paper presented at the ENHR Conference, 5–8 July, Toulouse.

Orr, D. (2010). *National housing federation submission to the review of the tenant services authority*. London: National Housing Federation.

Oxley, M. (2001). Meaning, science, context and confusion in comparative housing research. *Journal of Housing and the Built Environment, 16*, 89–106.

Pawson, H. (2006). Restructuring England's social housing sector since 1989: Undermining or underpinning the fundamentals of public housing? *Housing Studies, 21*(5), 767–783.

Pawson, H., & Mullins, D. (2010). *After council housing, Britain's new social landlords*. New York: Palgrave.

Pawson and Wilcox. (2012). UK Housing Review 2011/2012, Chartered Institute of Housing; 20th Revised edition (31 Jan 2012).

Priemus, H. (2008). Real estate investors and housing associations: A level playing field? The Dutch case. *European Journal of Housing Policy, 8*(1), 81–96.

Priemus, & Gruis, (2011). Social housing and illegal state aid: The agreement between European commission and Dutch government. *International Journal of Housing Policy, 11*(1), 89–104.

Prisk, M. (2012). Speech at National Housing Federation annual conference. https://www.gov.uk/government/speeches/national-housing-federation-annual-conference-2012. Accessed Sept 2013.

Purkis, A. (2010). *Housing Associations in England and the Future of Voluntary Organisations*. London: The Baring Foundation.

Rijksoverheid. (2012). Regeerakkoord 'Bruggen slaan' [Government of the Netherlands, Coalition Agreement, 'Building Bridges'].

Royal Courts of Justice. (2009). Decision of the Court of Appeal: R (Weaver) v London & Quadrant Housing Trust [2009] EWCA Civ 587.

SABO. (2009). http://www.sabo.se/om_sabo/english/Sidor/default.aspx.

Salamon, L. (1999). The nonprofit sector at a crossroads: The case of America, voluntas. *International Journal of Voluntary and Nonprofit Organizations, 10*(1), 5–23.

Salamon, L., & Anheier, H. (1992). In search of the nonprofit sector I: The question of definitions. *Voluntas, 3*(2), 125–161.

Salet, W. (1999). Regimes shifts in Dutch housing policy. *Housing Studies, 14*(4), 547–557.

Sartori, G. (1970). Concept misformation in comparative politics. *American Political Science Review, 6*(4), 1033–1053.

Stakeholder interviews- not-for-profit and public sector. (2009) (2011) (2013). Several in depth interviews carried out by the author in the Netherlands and England, covering CEOs of large housing associations, peak body leaders and a public policy official.

Stephens, H. (2010). On the public highway, *Inside Housing*. http://www.insidehousing.co.uk/need-to-know/legal/on-the-public-highway/6509448.article. Accessed 16 April 2010.

Suchman, M. (1995). Managing legitimacy: Strategic and institutional approaches. *Academy of Management Review, 20*(3), 571–610.

Teasdale, S. (2012). What's in a name? Making sense of social enterprise discourses. *Public Policy and Administration, 27*(2), 99–119.

Vandevyvere, W. & Zenthöfer, A. (2012). The housing market in the Netherlands European Commission -Economic Papers 457 | June 2012.