

**“The right to proper housing in Berlin.
Exclusion and precariousness in a field of blurred responsibilities”**

Irene Sabaté Muriel
Universitat de Barcelona
irenesabate@ub.edu

Foreword: Housing provision in the GDR

For the inhabitants of Friedrichshain, a neighbourhood located in the former East Berlin, housing conditions have dramatically changed since the unification of Germany in 1990. In a neighbour’s words:

“Many people do not understand that, for GDR citizens, it is very difficult to understand how a basic right like housing became commodified stuff. This shocked people. For my acquaintances and for me this was shocking. It was the most personal thing one had. Usually, one had only one flat¹”

However, the great population replacement occurred in this urban area has blurred the memories about the previous situation. Only a minority of the present-day Friedrichshainer can report about the total development and remember a time when housing provision was completely a responsibility of the State.

In GDR times, most of the older buildings (*Altbau*) were managed by the communal authorities (*KWV*), even if some of them remained nominally in private hands. As for the new blocks of flats (*Plattenbau*), many of them were owned by cooperatives (*AWG*). Flats were allocated depending on social criteria, such as being a single mother or a young couple planning to have children, and also on the applicants’ commitment to the socialist project and their ability to mobilise relevant social connections.

¹ Thomas, a 40-year-old Friedrichshain inhabitant and former GDR-citizen.

For decades, very few *Altbau* buildings were maintained or improved, and rents remained unchanged since pre-war times. Most public and, more frequently, cooperative investments targeted the building of *Plattenbauten*, where rents were slightly higher but also affordable, in the sense that they only entailed a small part of a family's income. And, even if rent debts appeared, they used to be tolerated. On the whole, at that time, the role of the State regarding housing was that of a direct and almost unconditional provider, and evictions were not perceived by citizens as a real risk. However, the lack of restoration measures in *Altbau* buildings and the long waiting lists for *Plattenbau* flats forced many families to live in inadequate flats. They tried to solve this by building some amenities themselves (such as showers) or by joining a cooperative through which the access to a new flat could be speeded up.

1. From the field: Daniela's search for housing

Daniela is a 28-year-old woman from an African country who used to live with her husband, her two children and another son of her husband in a rented flat located in the North-West of Friedrichshain. She was suffering abuse by her husband and finally decided to leave her home. The social services provided her with accommodation in a home for abused women (*Frauenhaus*) and, for the moments, her two children stayed with their father. Daniela's new address was only known to the social workers and to an adviser who was assisting her to find a new flat. As she had been long unemployed and received her benefit from the State, any rent offer should be approved by the job centre before they take on the payments.

During her search, Daniela was told to apply for a one-room flat. This was not in line with her aspiration to recover her children's custody as soon as she had settled down: one room was not enough for the three of them. But the job centre did not let her

apply for bigger flats as she was alone at the moment. Social workers advised her to accept a one-room flat to start with, then struggle for the children's custody, and then move to a bigger place. It took her some months to accept this condition and to start paying attention to offers of one-room flats, which delayed the whole search process.

Daniela's situation was officially prioritised in a variety of ways. Due to her low income, she had the right to apply for publicly funded flats. Besides, her case was considered as urgent by the authorities and the communal real estate company. This should have enabled her to speed up the process. However, she had to cope with the scarcity of offers for one-room flats in Friedrichshain, even if she was open to move anywhere in the neighbourhood (she was not even reluctant to live near her husband) and implemented different search strategies (she resorted both to the communal real estate agency, and to private landlords' advertisements). However, whenever she found a suitable offer and she applied for the job centre's approval, this procedure took too much time and other applicants were given the flat. Months went by and she continued to live at the abused women's residence, but only theoretically. As a matter of fact, she preferred to stay at a friend's place, where she found emotional support during that hard period.

2. Housing provision under the protection of the German welfare State

The housing domain has undergone radical transformations in the last two decades. The development of private interests in Berlin's real estate market has led to a situation where the State confines itself to intervene in some cases as a mediator between tenants and landlords. Instead of guaranteeing universal access, the State only acts when the threat of homelessness is considered to be present. This trend reveals the State's withdrawal from the housing market, as more conditions are being requested to

get assistance in housing issues. Only the most unprivileged are targeted by the State's action². And, even for them, we will see that assistance is not unconditional.

Perhaps the most prominent case of State intervention in the housing domain is that of long-term unemployed people like Daniela. Their *accommodation* costs –not *housing* costs- are undertaken by the district's job centre provided that the apartment does not exceed a maximum rent and size. This benefit for accommodation is allocated apart from the conventional unemployment benefit. Other costs associated to the rent, such as moving expenses, initial deposits or over-average energy bills, are taken over by the State only in some cases, depending on what they call the 'individual case'.

These conditions entail some important consequences for the recipients of benefits. First of all, according to the labour market law endorsed in 2005 (*Hartz IV*), the State only guarantees an 'accommodation' for them, which may not be a whole flat or house where the unemployed person (and eventually the other members of his or her domestic unit) lives in a closed space where intimacy is possible. Even if it is not a widespread practice, the law would permit to accommodate this population in homes or dormitories, a potentially cheaper and less complicated option. Therefore, the achievement of a full 'right to housing' instead of the current 'right to accommodation' is a demand of some organisations representing the unemployed people³.

Unlike their employed fellow citizens, the unemployed are confronted to the job centre's judgement concerning the suitability (*Angemessenheit*) of their flat, which takes into account some objective features (mainly the number of members of the domestic unit) and also the more variable features of the 'individual case' (for example, being ill, having a durable attachment to the neighbourhood, etc). But also other living conditions are scrutinized by the State. For example, the amount of the accommodation benefit

² Some universal forms of assistance have been preserved in other domains, such as the benefit for families with children (*Kindergeld*) in family policies.

³ The German Constitution does not include an explicit right to housing either.

may be reduced by the fact that the recipient is living together with another person. As cohabiting couples receive a lower benefit, this often leads them to hide their *de facto* status as a couple to the authorities. Indeed, unemployed people must be able to prove at any time that they inhabit the flat they are receiving their benefit for. In addition, whenever they wish to move, their decision is subject to the job centre's consideration, and a removal is only approved if it is found to be justified. Obviously, this constraint does not exist for working citizens when they decide to move. In fact, people often move for reasons that have nothing to do with the 'unsuitability' of their current flat.

Even when unemployed people have been living somewhere for a long period of time, the authorities may reconsider the suitability of that flat and their decision to take the rent on. After the endorsement of the labour market reform, unemployed people may be forced to move (*Zwangsumzug*) if their accommodation costs exceed the limits we referred to above. Although the massive displacement of people predicted by some experts did not occur immediately, some people have already been affected by this policy. In the first months, the law was preferentially applied to people confronting a rent increase, apart from those who looked for a flat at that time. In cases where the unemployed person lives in a flat whose rent exceeds the legal limits, the job centre threatens to cut off the accommodation benefit unless the recipient moves to a cheaper flat, sublets one spare room or renegotiates the rent with the landlord –the last solution being almost a utopia. On the whole, this is the most typical case of the State setting the conditions in which public assistance may be received. In other words, public assistance becomes thus conditional and contingent.

This subjection to the State's judgement on the suitability of a flat is not the only peculiarity of the unemployed people's situation in front of other citizens. Even if the accommodation benefit was originally conceived to be received by the concerned

person, who transferred it to the landlord afterwards, more and more landlords are demanding to receive rents directly from the job centre. They do not only avoid non-payments in this way. They also prevent tenants from exercising a right included in the German rent law: that of reducing the rent payment to protest for a defect in the flat (*Mietminderung*). Thus, people living on the unemployment benefit become the preferred tenants for landlords who aim at taking moderate but sure rents without bothering for the condition of their buildings. Even a specific market for otherwise unattractive flats may be created at the expense of unemployed tenants whose choices are considerably constrained. This could eventually lead to a form of spatial segregation, as unprivileged population could end up gathering in the same buildings or neighbourhoods, given that most landlords tend to own whole buildings and even several of them in Berlin.

In some cases, being aware that the State will pay without complaint, landlords may add an arbitrary amount of energy or management expenses to the net rent provided that the total does not exceed the maximum accepted by the job centre. This hinders the labour market law's explicit intention to spare public money on the accommodation of unemployed citizens. In fact, the State may be paying more than necessary for the unemployed people's accommodation.

The division between the accommodation benefit and the general one also prevents recipients from managing their monthly budget according to their own priorities. Thus, on the one hand, one cannot decide on the proportion of income to be allocated to rent. Complementing the accommodation benefit with some money from the general one, in order to be able to afford a more expensive flat, is not allowed even for small quantities in most cases. On the other hand, people who spare money by paying a low rent are penalised, as their total benefit is curtailed. This rule entails a

certain conception about the proper share of income to be spent on housing and does not contemplate alternative approaches. Once more, unemployed people are monitored and controlled in a way that would be unthinkable for other citizens, who are not prevented from spending a big part of their salary in housing at their own risk if they wish to.

There are also some new limitations for younger family members who have been living with their unemployed parents – as a part of a ‘needy community’ (*Bedarfgemeinschaft*) - and who wish to start living on their own. Even if they may receive their own unemployment benefit, they will not get an extra amount for accommodation before they are 25 years old, unless the reason for moving is the location of their education institution or workplace. As a result, unlike other German youngsters, the children of the unemployed meet specific constraints whenever they decide to live apart from their parents. And it is the State who decides when they can reach their residential autonomy.

In accessing a flat to live in, unemployed people can apply for housing units with a special status, similar to the social housing that exists in other countries. They are in fact privately owned buildings where public financial resources were allocated for construction or restoration. In exchange, some of the flats must be reserved for tenants with low income: the holders of a document called *Wohnungsberechtigungschein*. Of course, unemployed people are among the potential applicants, but they have to compete with employed, better-off citizens who tend to be seen as more reliable by landlords. As a result, they can only aim at flats that are not attractive for a wide middle class: in poorly renovated buildings, facing North, on the ground floor, in an unattractive location, etc. The scope of their choices is thus strongly reduced. The current upgrading trend that can be observed in many inner-city neighbourhoods (such as Prenzlauer Berg, Mitte or Friedrichshain), where more and more well-off population

is being attracted, is making it difficult for unemployed people to stay, especially if they have to move and wish to keep their roots in their neighbourhood.

For any Berliner, the search for a flat to rent is a confusing process where a variety of abilities and resources is required. Elements such as the complexity of bureaucracy, the specificity of the related vocabulary and the intersection of different regulations render most people unable to cope with the situation on their own. This is why they turn to experts (*Mietberater*) for advice. Such expertise is available at different institutions, for instance at tenants associations, either for free or for a small fee. As well as their knowledge on rent law and social policy and their familiarity with the situation of the local housing market, advisers may also use personal networks in aid of their client, as they usually have contact to relevant persons in the field.

In the case of unemployed people looking for a flat, some relevant persons and authorities may be, for example, the employees of the communal real estate agency, the civil servants from the social services, and those from the job centre. In a short period of time, procedures need to be intensified in order to get a written offer from a landlord (private or public), then the approval from the job centre who will take on the rent, and then the final confirmation on the landlord's part before signing the leasing agreement and taking possession of the flat. Any delay between these steps, which are often out of the applicant's control (for example due to unfavourable office timetables, slow decision making, etc.), may interrupt the process at any time and make the applicant lose the rent offer. In that case, the search needs to be taken up again.

3. Other precariousness factors

However, in the current de-regulation of the housing market, the unemployed are not the only at risk. Indeed, the access to housing in Friedrichshain is made difficult by

the high rents of vacant flats, by the strict conditions established by the landlords for an application to be considered (for example being free of debts), and by the complicated bureaucracy around the search for a flat. These circumstances are preventing economically and socially disadvantaged people to settle down in the quarter or to move within it, while more and more middle-class citizens, mostly young professionals and their families, are changing the social landscape of the area.

But, given the existence of an almost universal welfare system in the housing domain -even if assistance is not unconditional, we have described a variety of assistance sources that are still available despite the recent cutbacks-, accessing a flat in Friedrichshain may not be at present the main or the most urgent problem for many people in a precarious situation, such as the unemployed.

In order to appraise the whole range of inequalities at play in this sphere, the housing conditions need to be unpacked in different aspects. These must not only include the first moment, that of finding an offer, applying for the flat, being chosen by the landlord and signing the leasing agreement. In many cases, inequalities and precariousness become particularly sharp at a further stage. As we have seen, the security of tenancy, even if most leasing agreements are theoretically valid for an indefinite period, is endangered by the growing commoditisation of real estate goods. This commoditisation process is triggered in turn by the strong financial interests that motivate the landlords' actions.

The rapid development of the Berliner real estate market can be expected to be especially threatening for people living in so-called "insecure housing conditions" (*unsichere Wohnverhältnisse*), which include sublet agreements, squatted buildings, illegal constructions, caravans, etc. These situations are considered as the threshold of homelessness by the social services. But, being the most fragile cases, they are not the

only ones where inequalities are at play. It can be argued that, in some cases, unfavourable conditions can be counteracted if people resort to their own social networks, for example by staying at a relative's home, by asking for advice to a friend who has already got over that difficult situation, etc.

Inequalities become evident in another crucial regard: that of the tenants' autonomy to determine their own housing conditions. This includes the ability to decide whether a given flat is suitable for their needs and those of their domestic unit. As we have seen, the constraints for the housing provision of unemployed tenants impose a single residential modality: a flat owned by a private or communal landlord, with a maximal rent and a certain number of rooms. Further specific needs or preferences are hardly ever taken into account, and a whole range of alternatives (including other residential modalities existing in Friedrichshain, such as cooperatives) are not available for this population.

The last sphere where inequalities can be detected is closely related to the increasing level of rents in the inner-city districts and to the general trend towards social polarisation and segregation in Berlin. More and more, economically disadvantaged people are being forced to look for housing in peripheral districts – or in inner-city areas with bad reputation - where landlords do not expect to make such big profits or are not so worried about their customers' 'distinction'. In contrast, the middle class can choose between the most attractive inner-city quarters and the quiet suburban areas.

In short, it can be argued that, for citizens with low income or depending on welfare benefits, staying at home for an affordable rent may be more difficult than accessing a flat. In addition, due to their social or economical disadvantage, they are dispossessed of the ability to decide what kind of housing is more suitable for their

needs and preferences, also concerning its location. As we have seen, for the unemployed, the decision about the suitability of a flat is made by the authorities.

4. Conclusion: types of capital, responsibility, and the availability of proper housing conditions

We have already described how, in a context of bureaucratized State-citizens relations, exclusion not only derives from income inequalities. Indeed, the access to information and advice, as well as the availability of social connections capable of improving housing conditions are crucial. Following Bourdieu, the former could be related to cultural capital, while the latter fits the social capital notion. In the case of the unemployed, the State's definition of the criteria for the public provisioning of accommodation may also be an exclusion factor.

As a result, among all the inhabitants of Friedrichshain, socially isolated people (among which the unemployed are largely represented) and those who lack the abilities or the necessary information to cope with the market setting tend to be the most vulnerable in front of the unavailability of proper housing. These features narrow their choosing scope and their ability to determine their housing conditions, as well as they make it difficult for them to stay in their current flats for a long period.

Contrary to what happened in GDR-times, nowadays the State only comes on stage when a risk of homelessness is detected. From the very beginning, the authorities impose the specific conditions under which housing must be provided to that person or domestic unit. In exchange for the State's protection, the citizen must give up any attempt to manage the situation according to his own criteria. Thus, a crucial inequality emerges between the people who can provide themselves with housing in the market – often helped by rent advisers and/or by their own social network- and those who turn to the State for assistance. This inequality can even be understood as corresponding to two

different moralities: that of the self-determined individual who uses his purchase power to satisfy his needs and wishes in the market, and that of the needy person for whom the State feels responsible under certain conditions. In the future, the gap between these two social groups might be increased if the authorities decided to provide the unprivileged with accommodation –as the law says- instead of housing. The result could be interpreted as the creation of two distinct definitions of citizenship.

All in all, this research should lead us to describe the distribution of responsibilities about the housing provision among different actors and for differently situated citizens. Such responsibilities are in turn the outcome of different forms of mutual obligation contained in coexisting moral orders: that of the welfare State, that of the capitalist market, and that of the mutual help within the family or the community.