

## **Choosing tenure, is that a real choice?**

*(working paper)*

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keywords: client's choice programme, empowerment, freedom of choice, housing association, voice, ...

### **Abstract**

The client's choice programme is an initiative that knows several aims of which the most important one for the tenants is to enlarge their freedom of choice. In the programme the tenants get the option to buy their rental dwelling for either a normal or a reduced price. The initiative is placed in the empowerment discourse and freedom of choice has to be seen as one of the elements of empowerment.

Housing associations in the Netherlands offer dwellings in growing numbers in the programme but of all the expected effects the ones that are shown are yet unclear. This paper focuses on the question whether the programme offers tenants a real free choice. The findings are based on a literature review on the one hand and on findings from a survey on the other. The paper contributes to the debate on freedom of choice and the logic of offering social rental tenants the option to buy. The paper concludes asking the main question again: do tenants in the social rented sector get empowered from having a choice in tenure?

### **Introduction**

Housing market interventions in the Netherlands have known a great deal of private initiative when they emerged. The first housing associations were initiatives from wealthy, enlightened entrepreneurs, factory owners and charitable institutions aiming for "proper" housing conditions for the poor and (unskilled) workers. Housing demand in the cities was high, the pressure on the living environment and the number of dwellings even so. Situations changed during the years, wars passed and market intervention became a primary task of the national government recognising the need to supply and create a chance for citizens on proper housing. In the post WWII period the housing market was heavily regulated and controlled by central and local governments. The target group of housing policy was as broad as could be: every inhabitant. But in the 70's and 80's the governmental focus shifted from state intervention towards independency: allowing the housing market to regulate itself. (Priemus 1968, Schaar 1991, Conijn 1995) The policy attention shifted from all inhabitants in the Netherlands to people with housing needs. Choice for the tenant, or the consumer so to speak, became the central theme in the housing market though it was still the beginning of a turn. In the 90's the housing market was faced with a further liberalisation. Housing association became independent from the national government and municipal housing agencies were privatised. The housing associations that emerged were now private and had to operate in the housing market with even less governmental regulations improving their private and entrepreneurial character (Gruis 2000). Again, in the reasoning to get to the liberalisation the functioning

of the housing market and choice were the important drivers (VROM 2000) although some scholars note that there was a retrenchment argument as well (Gruis 2000). The argument to give citizens more choice in the housing market is implicitly linked to notions of empowerment. Choice and owning a property would contribute to several aspects linked with citizenship. Owning a home is explicitly linked to the quality of family life, economic stability, participation and the quality of neighbourhoods (VROM 2001, Elsinga 1995). Choice in tenure and tenures aiming to make ownership an opportunity therefore contributes to society by improving the quality of life and increasing the stability. This resulted in numerous new and different kinds of tenures throughout the country in the last decades. The question arises if this situation contributes to freedom of choice (at all) and if these choices are (and should be) aimed for the target group in the social rented sector.

### **Tenures**

The Netherlands traditionally knew two types of tenure: sale and rent. The rental share in the market used to be considerably big: over half of the housing stock up to 1990 (Thomsen 2002). The total of the housing market was and is seen as the sum of the market where homes are traded and the market where housing services are delivered. Experiments with different kinds of tenures have been around for some while and have seen a boom in the early 90's due to the push towards more choice and attention for the role of the consumer. Experiments have focussed on creating accessibility for low(er) incomes to the owner occupied housing market. Ownership has been stimulated ever since WWII by the national government: subsidies for first time buyers and low income owners have been around since the 50's (Elsinga 1995) but have been improved in the 80's, 90's and recently again since the take-off remained low (VROM 2001). The need for innovative tenures, shared ownership and subsidies for the housing market became of great importance in the Netherlands since the housing markets diverged. The market for homes and the services market developed an increasing price gap (VROM 2003). The gap between the rental and owner occupied market became hard to bridge. On the services market, primarily aiming on low income households, the rents are kept low due to governmental regulation and protection of the rental tenants. Meanwhile the house prices were blossoming giving opportunity to home owners to improve their financial position and to staircase in the housing market (VROM 2003). To provide rental tenants with equal opportunities the sale of homes in innovative tenures is seen as a necessity (VROM 2008, VROMraad 2006 and 2007, WRR 2005). Choice in tenure is a part of giving opportunity to the tenants on owner occupation, stair casing in the housing market and improving their economic position. As a container named empowerment. In the same period, roughly mid 90's to present day, market stimulation and promoting individual choice in formerly regulated markets can be seen throughout the governmental policies. Liberalisations of other markets such as care and insurance and the power market have been affected, providing individuals the opportunities to express their wishes and consume in relation to their demands (e.g. REF). Suppliers are obliged, since they have to compete with other suppliers, to meet the demands of the consumers. However, the housing market is still a tight market. But there are other characteristics of the housing market that make choice and opportunities unequally distributed. Here just a few of the typical aspects of the housing market that influence the freedom of choice will be

named. First of all the market is rather heterogeneous: every home is equal though different. Size, quality, type and place make every home distinctive from another (Priemus, 1968). Moreover, the location of a home is fixed and relates strongly with the value of a home (Conijn, 1995). The markets are rather regional determined and slow to react on changes in demand and the properties of existing properties are difficult to influence (Priemus, 1968). Information and the transparency of the market are due to the channels used to advertise both rental and sales homes far from optimal (REF). Besides, the mortgage schemes make the market even less transparent and create more heterogeneity. Finally, the housing market is capital intensive and for a great deal depending from the availability of capital both in the housing development market, the land market as in the mortgage market (Schaar, 1991). For the consumer to come to a choice all these aspects have to be understood to a greater or lesser extend.

Some of the characteristic housing market problems are addressed by national policies such as demand support, subsidiary schemes and safety net constructions. All the interventions aim increasingly on leaving the most possible freedom of choice for the individual and levelling financial burdens on the market. Individuals can consume and know their freedom of choice in the housing market supported by the government trying not to intervene any longer in the supply (as the government did in the post war period) but rather supporting the demand. However, the price gap between the markets is not covered fully by the governmental interventions and therefore a clear demand for alternative tenures to bridge the gap can be identified. Therefore, tenures as shared ownership, reduction on sales prices and other schemes have been devised to create opportunity to own a dwelling.

### **Clients Choice programmes**

Early attempts in the Netherlands to come to innovative tenures have led to the development of contracts that have been known as *MGE (maatschappelijk gebonden eigendom, socially bound ownership)* and have been around since the 70's (Bakker et al. 2009). These contracts were later changed into different tenures with different names such as *koopgarant* (guaranteed sale). In the municipality of Rotterdam a housing association devised a scheme known as *klant kiest* (Clients' Choice, later changed to *Te Woon*: for dwell) which enables tenants to choose from 4 differing contract types when occupying a dwelling. The Clients' Choice offer includes the traditional rental agreement and the *koopgarant* contract type (see Zijlstra and Gruis 2008 for an elaborate explanation of the Clients' Choice programme).

The *koopgarant* scheme offers, like some other contracts do as well, a reduction on the market valued sales price by leasing the land rather than selling it. The conditions in the contract to make this possible are a shared profit and loss when the dwelling is sold again (see Kramer 2008 for a financial explanation of the scheme). The scheme is being used by thirty percent of all housing associations in the Netherlands at the moment (OpMaat 2009). But only 26 (OpMaat 2009) of the 474 (CFV, figures of 2006) housing associations in the Netherlands offer the Clients' Choice programme to their tenants. This again illustrates that the push towards selling homes is stronger than the ideological aim of offering choice (see Zijlstra and Gruis 2008 for motives for implementing the Clients' Choice programme). Besides the *koopgarant* scheme, other tenure schemes have evolved from the MGE contracts. Basic principles to make the sales affordable and accessible for

low(er) incomes are reductions in the sales price as can be reached through: postponed payment, land lease, growing ownership, second mortgage and others. All the tenure schemes are bound by national ruling to share profits and losses in fixed shares (Bakker 2009). But still, schemes differ significantly. In some schemes the owner occupier is obliged to sell the dwelling to the housing association. In other schemes the owner occupier only has to notify the association when the intention to sell emerges. The reductions that can be reached in schemes differ from just 10% of the total value of the stock and land combined to 50% of the stock alone (while leasing the land) and effectively reaches a reduction of the total sales price of up to 70% (see Zijlstra 2007, Kramer 2008 and Noordenne 2006 for overviews of tenures). All of these tenure types share the same aims as the *koopgarant* and the Clients' Choice scheme. The Clients' Choice programme is primarily aimed at freedom of choice and giving opportunity to own a dwelling to low(er) income groups. These ideological goals are often regarded to as empowerment of the tenants (see Zijlstra and Gruis 2008 and Elsinga et al 2008). Besides the ideological aims, goals of a more practical nature are found to offer dwellings in alternative tenures. Housing associations are in need for cash-flow and therefore try to stimulate the sales of their stock (Neele 2008). One of the means to stimulate the sales numbers is offering dwellings in the Clients' Choice programme. The striving for the financial goal and the ideological goal collide in more than one occasion. From the empowerment perspective the freedom of choice is the highest value in the programme. But the need for cash-flow pushes housing associations to stimulate, or at least be willing to stimulate, ownership as much as possible. A recently launched website *kopen met korting* (buying with reduction, since late 2008) illustrates the need to increase the sales numbers within the different schemes. This illustrates at the same time the problems of the supply (information) channels in the housing sector. In general not just the housing markets are separated but the supply channels are separated as well (see Zijlstra 2007 as well for other impediments of the Clients' Choice programme). Regulations in the social housing market limit the freedom of housing associations to offer dwellings through other channels than the ones aided for rental dwellings. The new website aims at the market share of affordable housing in the Rotterdam region and advertises a different supply than the homes found on the Clients' Choice website which is part of the social rental supply website. Typically the dwellings offered in the Clients' Choice programme are offered among the other rental dwellings from other housing associations on the regional website since they can be rented as well. On the new website (and in local newspapers) homes are offered that the association would like to sell (and it is believed that they had been sold before but the housing association had to buy them back, see Kramer 2008 and Bakker et al. 2009 for the risk analysis of the different sales schemes). The advertisement reads like an offer in the 'summer sale': placing the old and new price next to each other. The website is clearly trying to make the offer look (more) attractive using the price setting/anchoring technique (Schwartz 2004). But the prices advertised are the market value and the *koopgarant* price: it is nothing like a summer sale. This illustrates the willingness to persuade the consumers to buy the dwellings rather than to leave the choice to them.

## **Choice and Welfare**

Freedom of choice is used in the Netherlands to establish market mechanisms in the housing sector. One of the arguments to do so is that the information is imperfect and by offering choice and stimulating information provision by housing associations the tenants will make more deliberated choices. However, other impediments than information are acting on the housing market as well. Shortage limits the supply and creates almost by definition a mismatch between demand and supply. Signalling this, the national government stimulates choice and interaction between housing associations and tenants. Housing associations are obliged by two different regulations (*BBSH* and *Overlegwet huurder verhuurder* Kruythoff 2008) to negotiate with tenants about their plans and policies. As a result tenants should know their positions enforced (through voice rather than exit, Hirschman 1974 and Kruythoff 2008) and be able to express their wishes better and find more appropriate dwellings in the supply from the housing associations. Moreover, the tenants as an organised group should find themselves in a comparable negotiation position as the housing association. This position has not yet been reached and tenants are still the weaker party on the housing market (Kruythoff 2008). This has probably not so much to do with their position on the housing market as well as with their characteristics of low(er) incomes and low(er) educational levels. To improve the position of the tenants in the housing market, and as a result of the *overlegwet* tenants can get financial support to organise and professionalise their organisation (comparable to the situation in the U.K. where tenant organisations are entitled to support from the housing association as well). The main problem remains the negotiation position and skills and knowledge the tenants have, even when they are organised and thereby bundle their powers (Kruythoff 2008).

Knowledge and skills are together with information availability seen as the key factors in freedom of choice. Several scholars point out that the freedom to choose is limited by capacities such as being able to process information and being able to understand different schemes and structures (Blokland 1995). Freedom of choice can be divided in positive and negative freedom of choice. Negative freedom means to be free from limitations imposed by others to realise your own wishes. Positive freedom of choice is the extent to which one is in direct control over its own life. The last is rooted in ones own desires to be different and to be responsible for its own deeds (Blokland 1995). Freedom of choice in the housing market clearly focuses on the negative freedom of choice and hereby enlarging the opportunity to improve the positive freedom of choice as well. Increasing the negative freedom of choice is thought of as being the driver of increasing positive freedom of choice. However, positive freedom of choice relates to self-determination and self-realisation and these are closely related with talents, knowledge and the skills of individuals (Blokland 1995). Increasing negative freedom of choice does not necessarily improve the knowledge and skills and therefore improving the positive freedom if choice is arguable. In the case of the housing market the division between the homes and services market, read the division between the rental and owner occupied market, the rental market is rather simple while the owner occupied market is rather complex. The complexity in the owner occupied market is bigger than in the rental market as a result of more regulations and obligations involved with owning a home. Note that the (social) rented sector exists for a reason: to create proper living conditions for the people who are not capable to provide in these themselves (*woonwet* Kruythoff 2008). Therefore increasing complexity should come with increased capacities to

understand and control the different aspects involved. The social housing sector shifted, as we have seen in the introduction, from a broad target group (all inhabitants) to a selective target group mainly focussed around income and abilities. The question rises if stimulating choice for this group is as logic as it sounds. Comparing Kemeny's (1992) welfare regimes we notice that the Netherlands is shifting its position towards a liberal regime. Hoekstra (2002) devised a different and updated position for the Netherlands in the welfare regimes of Kemeny and shows a shift from labour-led corporatism towards modern corporatism. This was in the nineties and since the policy shifted on towards liberalism which focuses on individual action and responsibility and market. The welfare state perspective is diminishing in favour of the liberal market state leaving social rented housing (as an extent of the welfare regime) to be a means tested safety net construction. Looking from a different angle it is still believed that a considerable number of tenants is residing in the social rented sector while having an income that makes it possible to leave the sector or even to buy an owner occupied dwelling without any reduction or assistance (Heijden 2002). Stimulating ownership thereby might increase segregation and further segmentation (a threat that worries some scholars as Priemus 2002). On the same time the national government is trying to regenerate 40 housing area's which are seen as problem area's due to high segregation and concentrations of low incomes, unemployment and ethnicity. The strategy is mixing where the focus is on sales rather than rent for high(er) incomes. Malpass (2006) points towards the increasing inequality in schemes alike due to the market system that tends to segregate rather than integrate: an effect of liberal housing policies. Considering these circumstances, what effects can be expected and seen from offering choice in tenures in the social rented sector in the Netherlands?

### **Effects**

As the levels of home ownership rise as we notice around the world (Priemus and Dieleman 2002) has this anything to do with the newly introduced tenures? New tenure schemes are not unusual at least throughout Europe: at least Great Britain and France are utilising shared ownership schemes as well. But the levels of home ownership rise in the whole world and EU more specifically. Probably there is no clear relation with the introduction of new tenures. This leads to the question who actually enjoys the choice and who choose for the alternative tenure?

These questions have been asked by Elsinga et al. (2008) in a broad inquiry among tenants of thirteen housing associations offering alternative tenures. First of all it is important to recall the numbers from Opmaat. They recorded 80.000 offerings of the contract *koopgarant* and make note of 11.000 closed contracts. A percentage of 14 of all the offered contracts actually got sold. A great deal, although it is hard to say how big a share of the contracts have been offered in the Clients' Choice programme. Zijlstra and Gruis 2008 note for the actual take-off of the *koopgarant* contracts in the Clients' Choice programme a percentage of around 10%. (Please note that the numbers from Opmaat and Zijlstra and Gruis differ slightly since the latter are based on numbers from 2007 and come to a total offering number of close to 100.000 dwellings based on yearly reports of only 7 of the Clients' Choice offering housing associations.) The actual take-off is thereby rather low and numbers from other contract types are roughly the same (or lower). Note at the same time that a mere 3-4% of the social housing stock (the total number of dwellings is around 2.4 million) is offered in the Clients' Choice programme.

The question remains: who chose and got to choose? Typically the offer is made to sitting tenants of building stock that is not listed to get demolished, in a pretty good maintenance condition and is not assigned for special target groups. Zijlstra 2007 mentions the efforts needed to offer the dwellings in the programme and these efforts limit the speed in which the offers can be made. There is no (explicit) selection on building stock based on value, rental prices or market position. This implies that there is no pre-selection of tenants or target groups that might actually be more eager to buy their home. The ones who got to choose are to be expected a good sample of all the tenants in the social housing sector. And herein lays probably the first explanation for the low take-off.

Who choose to buy? Zijlstra and Gruis (2008) found based on a small sample of in-depth interviews with tenants who got the choice no clear distinction between new owner occupiers and rental tenants could be made. But in Elsinga et al. (2009) it became clear that the tenants who choose to buy had significantly higher incomes, higher educations and were, generally speaking, more empowered than the rental tenants. The choice therefore seems only to appeal to the tenants that already have the opportunity to leave the social rented sector, either because they are financially capable or since their skills and knowledge are better developed.

The reasons to refrain from buying, so is learned from both Zijlstra and Gruis (2008) and Elsinga et al. (2008) lies in both financial capacities, the price of the home and age. Zijlstra and Gruis found that a reason never comes alone and the definitive choice is made deliberately. Elsinga et al. found that 42% of the questioned tenants seriously deliberated the options, but still everyone was able to give reasons for their choice. The reasons of age and financial capacity related strongly with non-deliberation in Elsinga et al. but still even a non-deliberation based on these reasons can be regarded as a deliberation: although be it a short deliberation. If the deliberation was so short can we then say that there has been a real choice? Or was the option just not an option and did it just took an eye blink to find that out?

Elsinga et al. illustrate that the freedom of choice in fact has been enlarged. Having the choice between renting or buying is an enlargement of the freedom to choose. And when one chose to buy the control and say over the dwelling increased as well. (Note that the obligations are increased simultaneously and that just 10 percent of the tenants choose for buying.) In contrast to this finding the respondents contradict each other when they are asked to value each others freedom of choice: half of the rental tenants found that owner occupiers were more free and vice versa. The difference is to be explained by the obligations that come with ownership and the relative freedom of rental tenants to vacate the dwelling whenever they want and not having to worry about selling the home. Still the rental tenants experienced an increased feeling of having freedom of choice. Overall freedom of choice is limited by rules and regulations and complexity of the structure wherein choices have to be made. Less rules means more freedom of choice. Less restrictions, in dwelling lay-out for example, leaves more freedom to lay out the dwelling. For the new owner occupiers the freedom of choice was not increased in means of the dwelling (lay-out) but it was increased in the options to buy: first there was the option to begin with and second there were the different contract types to choose from. For the tenants who, for obvious reasons choose to keep renting their freedom of choice was expanded to a lesser extend. This can be explained in terms of positive and negative freedom of choice: the latter has been enlarged, but the skills and knowledge remained

unaffected and the positive freedom remained equal to the previous situation. Still, Zijlstra and Gruis (2008) claim to have found clues that for at least some tenants the knowledge and skills have been improved without changing the tenure, but just gathering additional information. They argue that making an inventory of the opportunities of the offer contributes to the level of knowledge of the rental tenants. As a result they are more aware of the position and possibilities they have on the housing market. It can be concluded that, in line with Blokland (1995), higher educational levels generate freedom of choice and that therefore the social rented tenants experience less freedom of choice from the Clients' Choice programme than was expected.

### **Discussion**

The container of empowerment and the reasons to come towards a choice based model are diverse and focus on individual action. As some scholars pointed out this presents dilemmas for individuals but as well for governors. Choice demands several conditions before it can be enforced. Alternatives, means to express both the wishes as well as actual purchasing power to express these wishes rather than just explain them. Information is, in several ways important for the way the market operates and therein lays the ability to choose for individual consumers. Information touches on the quality and characteristics of the products. On the availability, the price setting, the risks and dangers entailed in choosing for specific products. The housing market is known to lack several of these information aspects and therefore burdens the freedom of choice. However, new tenancies contribute to the different opportunities for tenants to choose rather than being stuck in one tenancy. But informational problems remain unaddressed. Rather, it would be arguable that the new tenancies add more informational opaqueness to the housing market. The availability of new tenancies is rather locally defined. New, improved and changed schemes hit the newspapers on a regular basis. The newspapers and informational flyers from the actual suppliers of new tenancies not necessarily display comparable information. Let alone that the information will be accurate in case of the newspapers (ask me for funny examples). The different informational channels have proved to confuse tenants when they get an offer to enter a new tenancy (Zijlstra and Gruis 2008).

The opportunities to choose a tenancy, to enter an owner occupied dwelling grew, not necessarily being another dwelling. But on the same time the information jungle grew as well. Add to this situation that we are dealing with the social housing sector and hence low incomes, low education levels and low opportunities. It is arguable that the addition of only one aspect to the whole set of information needed to choose a tenure is too much. Rather than increasing complexity, decreasing complexity might be needed for tenants to be able to choose and comprehend the choices available and the effects involved. All but one of the tenancies added to the market involve ownership. Ownership comes with rights and duties imposed by national governing and mortgage rulings. Full ownership is rather straightforward however shared ownership asks for a broader understanding of the added rules of conduct and the risks or downsides of shared ownership. Are the social tenants the most eligible to deal with such questions? (Compare Schwartz 1995 when he is addressing the American pension schemes.) Moreover, the offering of available tenancies is determined by the housing association. Tenants may be informed, may know what tenancy they prefer or can afford, the tenancies they can choose from are limited.

Tenancies are usually specifically offered by some housing associations and typically there are different housing associations letting property in defined areas. Tenants looking for a dwelling have, due to scarcity of social housing stock especially true for the Randstad area and the major cities, to face a limited freedom of choice and the dispersed offering of different tenancies rather limits this freedom than enlarging it.

This leads back to the question: is there a real freedom of choice imaginable in the social housing market? Can we supply the tenants we think of as lacking means and abilities to provide themselves with proper housing with freedom of choice? Do they demand a choice or would they rather be provided with proper housing wherein the opportunities are present to work on their means and abilities. And finally: do tenants make the same distinction as researchers do between the market for houses and the market for housing services? If this is true and tenants make this distinction, tenure actually can play a significant role in housing preferences. The contrary might be true if tenants and especially the ones that have a lower financial capacity are just on the look out for a affordable dwelling.

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