Urban Planning Policies in the Wake of Social Change: New Strategies for Creating Equality of Opportunity in Germany and the United States

Introduction

Since 2015, the U.S. has experienced a surge of protests and renewed civil rights debates after tragic police violence, notably in St. Louis and Baltimore. At the same time, across the Atlantic, Germany was responding to a mass refugee exodus from war-torn countries in the Middle-East and Africa. In 2015, Germany admitted approximately one million new residents as refugee seekers. The U.S. and Germany, as major economic and world powers and, respectively, the first and second largest destination for immigrants world-wide, are each faced with their own unique challenges in creating economic opportunity for their most vulnerable citizens - recent migrants and racially diverse citizens alike. Moreover, in both Germany and the U.S., the location, quality, and quantity of affordable housing are significant factors in creating greater equality of opportunity. This paper explores new opportunities to achieve equitable outcomes using urban development policies, specifically in the area of affordable housing, and highlights future areas for greater transatlantic cooperation.

Equality of Opportunity: Definition and Cultural Implications

While a precise and agreed-upon definition of "equality of opportunity" does not exist, the legal foundations of both Germany and the U.S. describe a basic right of non-discrimination. Both countries have enacted policies to support this right. In the U.S., the Equal Rights under the Law Legislation states, "[a]ll persons within the jurisdiction of the United States shall have ... equal benefit of all laws ... as is enjoyed by white citizens." In the 1960's a series of Civil Rights laws were passed to reduce inequalities based on protected classes: color, national origin, sex, family status, religion and disability. Under the Obama Administration, the Civil Rights Act of 1968 was strengthened to ensure that the regulations were being adequately enforced. This included increased enforcement of the aforementioned act, known as the Fair Housing Act, to require that cities and towns across the U.S. not only prevent discrimination in the housing market, but also take positive steps in providing adequate housing and services to reduce inequalities based on protected classes. In Germany, the Basic Law, the constitutional law of the country since 1949, states that "no person shall be favoured or disfavoured [by the state] because of sex, parentage, race, language, homeland and origin, faith, or religious or political opinions." In fact, Chancellor Merkel invoked the

Basic Law's statement on "inviolable and unalienable human rights" to explain the government's position to keep the German borders open at the height of the refugee influx in 2015.

Best Practices: Creating Greater Equality of Opportunity through Housing Policy

In both Germany and the U.S., the location, quality, and quantity of affordable housing are significant factors in creating greater equality of opportunity. Harvard researcher Raj Chetty has shown that, in the U.S., the neighborhood in which a person resides effects almost every other aspect of their life, whether it is availability of jobs, quality of schools and medical services, availability of other social infrastructure (parks, child-care, and cultural amenities), and transportation mobility options. According to this research, racial and income segregation in the United States is associated with less upward economic mobility from childhood into adulthood and the persistence of poverty through multiple generations. In a 2009 to 2012 German research study, researchers found a correlation between the quality of the built environment, particularly that of the neighborhood, with that of employment, education and income levels. This section introduces policies that have the potential for further transatlantic exchange in the area of affordable housing, specifically how housing and built environment policies have the potential to create greater equality of opportunity in both countries.

Affordable Housing in Germany

In Germany, the bulk of social housing construction began after WWII. Between 1950 and 2000 the government financed approximately 24 million apartments of which nine million were dedicated for low-income residents, called *Soziale Wohnungen* or social housing. In the early 1970s, the construction of new housing units decreased as historic preservation, revitalization efforts, and modernizing projects took a larger role. After the fall of the Berlin Wall in the 1990s, Germany saw a renewed, if smaller, demand for affordable housing in part due to asylum seekers from the Balkans as well as from the poor state of the housing stock in former East Germany. Several important housing policy shifts began at this time, including the privatization of former government-owned social housing stock and, in 2006, a shift in responsibility for affordable housing production from the Federal Government to the 16 States or *Länder*. Today, new affordable housing production is primarily financed

by the reimbursement of private developers in a program called *soziale Wohnraumförderung*. This funding is distributed from the Federal government to the 16 states and then to eligible localities, with each providing one-third of the funding. With these funds, states and localities are able to finance a number of affordable housing activities including providing funds to private developers, who create social housing units. Affordable housing is also supported through vouchers, which provide direct payments to residents either from the Federal government (*Wohngeld*) or from the local government (*Kosten der Unterkunft*). While states have responsibility for the provision of affordable housing, most have devolved this responsibility to their larger cities and, as such, the type and mix of affordable housing varies significantly at the local level.

Germany is currently struggling with a shortage of affordable housing. This is especially true in large German cities and for persons in the lowest income brackets. Several factors have led to this shortage. First, much like in the U.S., in the past ten years there has been an increase in demand for housing in large and university-based cities due to an influx of younger Germans, who prefer to live in urban areas. Second, the *soziale*Wohnraumförderung program provides funding for new units that are affordable to low- and moderate-income Germans; however, there is no clear policy instrument to increase the supply of units that are affordable to the lowest income segment. Coupled with the continuing privatization of previously publicly-owned housing companies and the expiration of affordable housing options for the lowest-income persons. 12

In addition to the lack of affordable housing, Germany struggles with the quality and fair distribution of its existing, affordable housing stock. Even before the immigration events of 2015, many Germans noted the state of segregation in the housing market. In the 1960s and 1970s, new *Gastarbeiter* or guest workers, mainly of Turkish and Southern European descent, who were invited by the German government to live and work in Germany following the Second World War, created a housing shortage in cities like Berlin. ¹³ Facing housing discrimination, these guest workers settled in neighborhoods that were considered less desirable due to a lack of attractiveness, connectivity, and services. ¹⁴ To this day, many of these neighborhoods have retained cultural ties to a specific country of origin and, in most cases, lack of investment has continued.

Affordable Housing in the U.S.

The U.S. housing market has been defined by several phases. One of the most significant was the growth of the single-family housing market in the suburbs after World War II. For the first time in U.S. history, bank loans became available to most households due to development of new financial products. Before the Fair Housing Act of 1968 made housing discrimination illegal, existing homeowners placed "restrictive covenants" in their deeds, prohibiting the sale of their home to people of color and the Federal Housing Administration made home loans available mainly to white families in new suburban single housing divisions. ¹⁵¹⁶ The result, by the beginning of the 1960s, was a highly unequal housing distribution with middle- and upper-class white persons living in the suburbs or more desirable city neighborhoods and people of color largely relegated to the less attractive neighborhoods and housing in older, urban areas. The repercussions of these policies continue today and effect more than just quality of housing. The federal homeownership tax exemption allows households to accumulate significant savings and, over time, wealth. The lack of homeownership opportunity for people of color has contributed significantly to the lack of wealth accumulation for this group and the increasing inequality between whites and people of color in the United States.

Today, the Low Income Housing Tax Credit (LIHTC), managed by the U.S. Treasury Department and distributed by states, is responsible for the largest share of new affordable housing construction in the U.S. Through this program, states and local bodies issue up to \$8 billion in tax credits for the preservation, rehabilitation, and creation of new affordable housing units by private developers. The U.S. Department of Housing and Urban Development also provides direct transfers to landlords in a program similar to *Wohngeld* called the Housing Choice Voucher Program or "Section 8". With this subsidy, households are responsible for paying one-third of their income toward rent and the HUD subsidy provides the remaining amount up to a set threshold. 2.2 million households are participants in this program. Another 1.1 million households are served through the existing pool of Public Housing units built directly by the Federal Government between the 1930's and the 1970's. The U.S. Treasury Department of the U.S. Treasury Department Department

Comparison of Affordable Housing: U.S. and Germany

The U.S. and Germany have some remarkably similar funding instruments for housing and the urban development programs that support affordable housing. For example, the U.S. Housing Choice Voucher (HCV) program is comparable to the *Wohngeld* program. Each provides a guarantee that the voucher holder pays one-third of their income toward rent, with the subsidy going to the landlord in the case of HCV and the tenant in the *Wohngeld* program. The *soziale Wohnraumförderung* program can be compared to the U.S. Low Income Housing Tax Credit, each program provides financing to private developers, who produce affordable housing. *Soziale Wohnraumförderung* funding is provided through direct transfers from either the state or the locality to the developer, whereas, in the U.S., developers recoup finances through a 10-year tax credit. Further, *soziale Wohnraumförderung* is typically used to subsidize a portion of affordable units in mixed-income new construction, whereas the LIHTC program tends to finance wholly affordable developments. Germany and the U.S. also fund urban development similarly. Both countries provide block grants to localities for urban development activities through similar programs, called *Städtebauförderung* and Community Development Block Grants.

For all the similarities, the scale of the German programs out-pace those in the U.S. When evaluated as a percentage of GDP, Germany provides significantly more public funding than the U.S. toward such programs. Second, 13% of low-income renters in Germany face housing cost overburden (spend 40% or more of disposable income on housing costs) compared with 59.2% in the U.S. ¹⁹ An analysis of all U.S. funding sources shows that there are only 31 units of affordable housing available for every 100 low-income families. ²⁰ In addition, according to the U.S. Congressional Budget Office, only one-fourth of eligible U.S. low-income households receive housing assistance through federal funding programs. ²¹

German and U.S. housing markets differ in other ways as well. Germans tend to rent their homes, with an average of 55% of households renting, whereas U.S. citizens are more likely to be homeowners – only 35% are renters.²² In German cities the percentage of renters can be even higher. For instance, in the city of Leipzig the share of renters is 87%.²³ As such, there is a significant political base in Germany advocating to keep rents affordable and tenants protected. In the U.S., on the other hand, renters are, as a percentage, smaller and tend to have lower incomes than homeowners; therefore, they are less politically potent.

Despite these differences, both the U.S. and Germany are grappling with two similar trends in their housing markets. First is a growing issue of gentrification, especially in major cities. In both countries, this gentrification is marked by increased migration into city centers especially by young professionals and, therefore, an increase in demand for existing housing stock. Another trend is increasing unaffordability of goods, including rent, due to sluggish growth in wages over the past 15 years.²⁴ Due to high demand for housing, especially in urban areas, there is a renewed need to ensure that affordable housing in quality neighborhoods is being distributed fairly to people of color and newly-arrived residents with legal permissions to stay in both countries.

Recommendations

New Protections against Discrimination in the German Housing Market

In 1968 the Fair Housing Act was passed in the U.S., giving the U.S. Department of Housing and Urban Development overall responsibility for implementing new fair housing requirements and the Department of Justice responsibility for enforcing criminal complaints. This law prohibited discrimination on the grounds of gender, race, nationality, religion and disability in the sale and rental of housing units and the behavior of real estate agents. The Act permitted direct enforcement by the Federal government as well as a private right of action, in which private citizens and groups could bring their own lawsuits to enforce their rights in federal court. Since this law came into effect, people of color and new immigrants have gained significant political power and legal rights against discrimination in the housing market.²⁵

In Germany, the Allgemeines Gleichbehandlungsgesetz (AGG), or the Anti-Discrimination Act, was passed in 2006. This Act prohibits discrimination on the basis of race or ethnic origin, gender, disability, religion, sexual orientation and age and applies to employment, education, membership in organizations, and access to- and supply of goods, including housing. There is no separate legislation dedicated specifically to the housing market, and, unlike the Fair Housing Act, the AGG does not allow private groups to file complaints, has limited enforcement power, and, arguably, less deterrence power.

The law is implemented by the Federal Anti-Discrimination Agency, a division within the Ministry for Social, Labor, Family and Children. German states and cities are not required to hire employees to enforce this law at the local level. There are anti-discrimination non-governmental organizations and advocacy organizations working in almost every region of Germany; however, these organizations are not well funded by the government sector. ²⁶ Further, advocacy organizations are not permitted to file complaints on behalf of individuals or groups of aggrieved persons; rather individuals must file each case alone and within two months of the alleged discriminatory act. The barriers to filing a complaint, amount of time needed for proceedings, as well as monetary and emotional costs mean that few cases ever go before a judge. This is aggravated by the fact that fines and compensation for successful cases are quite low compared to the costs for the individual. ²⁷ As such, there is little incentive to bring such cases to court and little fear of repercussions of this law in the housing market. However, effective deterrence of housing discrimination is especially important in Germany where the majority of affordable rental housing is provided by private landlords. ²⁸

The City of Leipzig conducted a comprehensive survey of citizens with "migration backgrounds" in 2016. The outcome on housing discrimination showed that at least 20% of those with such a background reported experiencing discrimination in their housing search at least once. Those who reported being discriminated against more than one time in the housing market were predominately non-white immigrants from Turkey, Syria, Iraq, Tunisia, Afghanistan, Morocco, China, Vietnam, and India, 41% of whom reported multiple experiences.²⁹ The first federal survey on the practice of discrimination throughout Germany conducted in 2015 showed similar rates of discrimination in the housing market. Of those surveyed who had experienced discrimination in the past 24 months, about 19% of respondents reported discrimination in the housing market.³⁰ In a new Germany-wide study, investigators from Der Spiegel and Bayrischer Rundfunk sent 20,000 applications to rental housing advertisements and received over 8,000 responses.³¹ They found that applications with Turkish- or Arabic-sounding names were particularly discriminated against in comparison to the same applications with German-sounding names. Of these Turkish and Arab applicants, male names were more discriminated against than female.³² This confirms observations from advocates for new immigrants in Germany, who anecdotally report a high incidence of discrimination in the housing market, especially for unaccompanied male immigrants.³³

Most of the many newly arrived residents from 2015 have clarity on their legal status and are moving out of short- and long-term shelters. Therefore, integration into the housing

market and communities is beginning now. Without a strong position against housing discrimination at all levels of government, these populations could be steered into less desirable neighborhoods, leading to unequal living conditions based on ethnic origin. Therefore, Germany should consider the following recommendations:

- 1. The Federal Anti-Discrimination Agency should conduct a study focused on the issue of housing discrimination for the AGG protected classes. This study should analyze the difference in behaviors based on small and large private landlords, housing cooperatives, and the behavior of real estate brokers (*Mäkler*).
- 2. The Federal Anti-Discrimination Agency should be given more enforcement power to implement the Act. Public housing companies, and housing units that receive public funding should be required to publicly disclose their selection procedures and the numbers of persons in AGG protected classes that are housed each year.
- 3. The Federal Anti-Discrimination Agency, in cooperation with advocacy organizations throughout Germany, should consider kicking off a public campaign to bring public awareness to housing discrimination and the rights of tenants.
- 4. The AGG should be revised to allow organizations that represent individual complainants (*Verbandsklagerecht*) and aggrieved groups to file complaints in order for judges and the Federal government to see patterns of discrimination and respond accordingly. Another important reform would be lengthening the time after which an incident of housing discrimination has occurred and the right to file a complaint (currently two months).

Recommendations for the U.S.: Using German Affordable Housing Models to Increase Equality of Opportunity

One of the most unique aspects of Germany's affordable housing market is the use of self-use or cooperative housing models; typically developed and supported at the local level. While these living forms are also present in the U.S., they comprise a relatively small share of the affordable housing mix. In Germany, they are considered important, especially in retaining long-term affordability in the face of gentrification.³⁴ There are many different organizational forms of such models and corresponding legal structures; however, each is

characterized by interest in a group of people in the renovation or new construction of housing units for long-term, self-use.

In the City of Leipzig, a city of 580,000 residents in former East Germany, there are typically two main forms of such housing models. In the first, the city supports groups interested in building a new home, typically with the goal to create an owner-occupied property with multi-functionality. For example, creation of a multi-generational home, in which older residents can age-in-place with younger residents, or living quarters appropriate for people with disabilities.³⁵ The second model is characterized by the renovation of existing structures into shared, affordable housing space. In this model, a group of people receives technical and monetary support from the city to establish a legally recognized organization and renovate an existing property for future use as their multi-family residence. The group contributes to the renovation themselves through investment, taking on low-interest financing, and sometimes contributing to the renovation directly - sweat equity. In the end, each tenant has their own living space as well as access to shared amenities, such as terraces and shared kitchen space.

The legal and operating structures of this second model are typically created in one of two ways. In the first, each member of the group buys a share in the property and has the option to sell this share at the end of his/her tenancy. It is possible, with an increase in housing values, to gain a profit from this sale. In the second, the group forms a non-profit or club and finances the revitalization of the building through fees to this organization. There is no right of ownership to any single tenant. The building is owned by the non-profit and those who live there pay dues (essentially rent). When a tenant would like to move, the next tenant simply pays for their share of the non-profit with no- or low-profit increase. This model retains long-term affordability of the housing stock; however, it does not allow for a potential profit for the initial tenant. Both models serve the dual purpose of providing long-term affordable housing to existing residents and contributing to neighborhood revitalization efforts through renovation of old or unused, existing housing stock.

While there are many benefits of the above models, the start-up costs for residents in terms of time, energy, and finances are high. Further, such living forms could have the potential to aggravate segregation in the affordable housing sector if the initial tenant chooses new residents based on their similarity to existing members. However, these models also have

several benefits, including the potential to revitalize empty or underused building stock, provide long-term affordability in the face of rising costs, improve the stability and quality of affordable housing since residents own a share in the building and must be committed to the project in order to see it to fruition, and have the potential to house socioeconomically diverse families together.

The Sharehaus Refugio project in Berlin is a great example of an innovative cooperative housing model. Refugio provides temporary living space for up to 18 months to as many as 40 residents, who apply and meet the criteria to live in a shared setting and bring a particular skill to the community. Currently half of the residents are refugees. Of the other half, some are German nationals and others are voluntary newcomers to Berlin. 10 nationalities are currently represented. The residents of the house offset their rent costs by running a popular café on the ground floor, hosting events in a resident-refurbished banquet room, and providing city tours led by refugees and formerly homeless individuals - all on a volunteer basis. German residents provide help with German language skills and job searching for refugee residents and non-German residents create events that initiate German residents to their culture. In 2017, Sharehaus plans to open a new building using the same model, but offered exclusively to families. The same model is a great example of an innovative cooperation of the provide search of the pr

Based on such models, the U.S. should consider the following recommendations:

- 1. The U.S. Department of Housing and Urban Development should consider reviving financial products that support cooperative housing. The U.S. affordable housing finance environment does not currently incentivize cooperative housing models. In the past, low-interest mortgage products were available that could be used for cooperative multi-family home building. During this time 1960s to 1970s multi-family cooperative buildings were created in many large U.S. cities. For example, 148,000 limited-equity cooperatives alone were built between the 1960 and 1970s.³⁸
- 2. Most large cities in Germany offer city-run "incubators" for the creation of cooperative and shared housing models. For example, in Leipzig, the *Netzwerk Leipziger Freiheit* provides free consultation, connection with similar projects, access to and information about available financial grants, and financial consulting for persons interested in such a project. Cities in the U.S. should consider providing consultation for alternative living

arrangements in order to promote priorities such as long-term affordable housing, self-reliance, homeownership, neighborhood revitalization, aging-in-place, and inter-cultural exchange.

Supporting Federal Programs that Invest in the Civic Engagement and Integration

Both the U.S. and Germany have pursued a balanced approach to provision of affordable housing, in which creating affordable housing options in high-amenity neighborhoods is complemented by investment in disadvantaged neighborhoods. The U.S. has focused on the second part of this strategy - reinvestment in- and revitalization of disadvantaged neighborhoods - through programs like the Choice Neighborhoods Program, the Strong Cities, Strong Communities Initiative (SC2) and the Promise Zone Initiatives. Since 1999, Germany similarly has provided federal funding to strengthen disadvantaged cities and neighborhoods throughout the country. With a goal to renew neighborhoods both through investments in the built environment and by creating stronger neighborhood participation, the Social City Program (*Soziale Stadt*) supports the creation of neighborhood advisory councils and encourages cross-disciplinary participation from all sectors - governmental, philanthropic, private and civil society, especially from under-represented groups - to solve major local challenges.³⁹

Based on the success of the Social City program, it was expanded in 2016 to focus on integration of new migrants. This complementary program, Social Integration in Neighborhoods (*Soziale Integration im Quartier*), will be supported by an additional €200M each year between the program years 2017-2020. The additional funding will support the building of social anchors, for example kindergartens, schools, community centers, and city and town centers in disadvantaged neighborhoods. Funding will be provided for programming at these locations with the aim to achieve improved social integration for new migrants and community-building outcomes.

The German Federal Institute for Research on Building, Urban Affairs and Spatial Development (BBSR) has supported the Social City program by conducting research and evaluation of the program. ⁴⁰ In a 2009 to 2012 research study, BBSR demonstrated the importance of linking integration strategies with neighborhood development strategies. ⁴¹ The study sought to understand how government could best support better integration outcomes

through neighborhood development interventions. The study focused on six city neighborhoods in geographically diverse areas of the country and defined integration differently based on the local needs. In all cities, the researchers were interested in the social and political participation of persons with migration backgrounds at the neighborhood-level.

The researchers identified several important neighborhood-level best practices that foster better integration outcomes. First, the researchers concluded that, in order to increase the political participation of migrants in local areas, under-represented groups and new migrants should always be included in neighborhood development discussions and, in the best case, redevelopment efforts should be led by a person with intercultural competencies. Second, the researchers found that programming offered at local schools, daycare facilities, and faith-based organizations more successfully reached under-represented groups. Third, they found that migrants were better off when place-based strategies, including affordable housing, were created in tandem with local economic and labor market policies.

These findings are consistent with research in the United States. Derek Hyra, in his book about changing social demographics in the Shaw neighborhood of Washington, D.C., states that "[n]eutral 'third spaces' may facilitate the development of bridging social capital." According to Hyra, these "neutral third spaces" are places where community members come together in a space that creates a sense of shared interests rather than competition. Hyra's examples of such spaces are local cafes, recreation centers, day-care facilities, community gardens, libraries and schools - places that will be supported in Germany's new Social Integration in Neighborhoods program.

Similarly, in the U.S., several so-called "place-based" programs have focused on supporting neighborhood "third spaces.". Specifically, the Choice Neighborhoods program, which invests in the rebuilding of old, distressed public housing units, includes funding for construction of new neighborhood anchors. Further, grantees must focus on the political and social participation of public housing residents, a historically marginalized group, in their projects. However, in the draft fiscal year 2018 budget, President Trump defunded the Choice Neighborhoods program.

Therefore, it is recommended that the U.S. Federal government:

- 1. Continue funding the Choice Neighborhoods Planning and Implementation grant programs since the methodology employed in this program is central to continuing to support mixed-income, diverse communities; and
- 2. Based on the Social City program, consider expanding the recipients of Choice Neighborhoods to include all low- and moderate-income populations living in distressed neighborhoods, not only residents of public housing.

Conclusion

More than ever before, today's world needs policy interventions that allow for greater diversity and decrease income inequality. To date, many of these interventions have focused on *people* (language courses, employment training, housing vouchers), but it is equally important to consider *places*, especially cities, neighborhoods, and housing markets, as points of intervention. On this front, Germany and the U.S. can learn a great deal from one another. Both countries are diverse, centers of immigration with similar urban development and housing policy environments and shared mitigating factors, such as growth of urban cores, tight housing markets, and wage stagnation. Germany has the opportunity to provide an environment conducive to promising outcomes for its newest wave of immigrants. The U.S., on the other hand, has the chance to continue to be the world's "land of opportunity" and the forerunner on inclusion of peoples from all over the globe. Together, these nations can support each other to be examples to the world in how economic strength comes from finding the opportunity and value in every member of society.

¹ The Brookings Institution, in a 2016 paper on the global challenge of integration, argued that local policies have the greatest role in determining integration outcomes and equality of opportunity.

² 42 U.S. Code § 1981

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