

“Decades of Struggle for Space”: About the Legitimacy of Informal Settlements in Urban Areas

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SUMMARY

There are two prominent factors (i.e. push and pull factors) causing rural/urban migration resulting in the emergence of informal settlements in urban areas. The push factors are directly related to livelihood problems, displacement due to conflicts and natural disasters. Similarly, the pull factors are those related to economic opportunities, better education and better health facilities in the urban areas. In Nepal, the informal settlements without formally recognized land tenure in urban areas have always been a critical issue, and failure to give legitimacy to these settlements resulted in many hurdles and/or continuous struggles between the governments (central and local) and the informal settlers. Although the informal settlements lack legal legitimacy, some trust in social legitimacy exists and ultimately triggers the growth of the number of informal settlements.

Since urban land allocation is multifaceted with many issues including housing rights and land rights, this paper analyze the problems on legitimize urban land for the urban informal settlers. The concept of “action space” is adopted to analyze how the government actors and civil society groups are playing roles towards legal legitimacy and social legitimacy. Using a case study approach in two areas of Kathmandu city of Nepal, this paper presents the struggles for urban space using the “action space” concept in which the government actors and civil society groups are putting efforts towards legitimacy. Lastly, this paper identifies the major factors that put pressures on the legitimacy of informal settlers.

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1. INTRODUCTION

Informal settlements with various names such as *slum*, *shanty town*, *squatter settlements*, *illegal housing*, *bosti (India)*, *favela (Brazil)*, *gecekondu (Turkey)* are a wide spread phenomenon in global South (Srinivas 2005; Davy and Pellissery 2013). In Nepal, the informal settlement is termed as “*Sukumbashi Basti*” i.e. the settlements due to illegal encroachment of land without official land ownership certificates. Officially, it means, the person occupying the land illegally, but literally landless person. In fact, “*Sukumbasi*” which is termed as “squatter”, does not address the person who has land elsewhere. Even though, the legally occupied land elsewhere is not technically feasible for sustaining livelihood. Besides “*Sukumbasi*” there are some older settlements who refer themselves as “*Swabasi*”, a term literally means “dwellers staying by themselves” and these settlers also lack legal documents of their existence but they do not refer themselves as “*Sukumbasi*” (Tanaka 2009). Due to ambiguity of the term, the study conducted by UN-Habitat (2013), has defined informal settlements, as “settlement on government, public or private land by the urban poor without lawful authority” and slum as “settlement on unhygienic, unsecured and vulnerable place having no minimum urban infrastructure”. Moffat and Finnis (2005) have mentioned that settlers themselves are not satisfied with the name “*Sukumbasi*”. Therefore, the term “informal settlements” as used in this study refers to the settlements without formal land tenure.

Due to increasing pressure on urban land caused by rapid urban growth, the consequences of informal settlements are rising. When considering informal settlements, the question raises regarding the “informality”. Porter (2011) made a debate of informality mentioning informal does not exist outside the formal system, but is produced by the weakness in the formal structure. Indeed such informal settlement in urban areas exists in the “grey spaces”, i.e. positioned between “whiteness” of legality and “blackness” of eviction (Yiftachel’s 2009). This grey space is a blurred boundary between legal and illegal, acceptable and unacceptable, the planned and the unplanned (Roy 2009). With this in mind, the main objective of this paper is to analyze the struggles for urban space between informal settlers and various actors (government and non-government) using the “action space” in the grey space. This paper also attempts to identify the dominating factors for the legitimacy of informal urban settlers.

2. EMERGENCE AND CHALLENGES OF INFORMAL SETTLEMENTS

2.1 Facts Towards Emergence of Informal Settlements

Urbanization is an important social and economic phenomenon which is taking place rapidly all around the world (Deng, Wang et al. 2009). The driving factors of urbanization are population growth and rural-urban migration. Indeed, these internal migrations are always accompanied by “push factors” of rural areas (unemployment, low standards of housing and infrastructure, lack of educational facilities, conflict, surplus labor) and “pull factors” of urban areas (economic opportunities, attractive jobs, better education, modern lifestyle) (Kotter and Friesecke 2009). But in developing countries, these urban migrants often encounter great difficulties in access to land to fulfill the shelter needs, as land and housing markets are often too expensive and lengthy processes. Therefore, they could not enter the formal land and housing market. This results in the illegal occupancy of vacant land; often publicly owned land, where there is less fear of being dislodged than from private property (Aiken 1981). Turner (1969) argued that the informal settlements are “the product of and the vehicle for activities which are essential in the process of modernization”. But Fox (2014) critically opposed the former statement mentioning it rather as “*disjointed modernization in which urban population growth outpaces urban economic and institutional development*”. It is the consequences of land and housing market failure due to demographic, economic or institutional factors. In fact, the issue of informal settlement is manifested into endogenous factors and exogenous factors. The endogenous factors are the inherent attribute of informal settlement like financial resources, human skill while exogenous factors are lack of land and housing policy for informal settlers (Srinivas 2005).

2.2 Challenges of Informal Settlements

The challenges of informal settlement are multidimensional, covering legal, socio-economic and physical aspects. The key characteristic that delineates the informality is lack of legal recognition of these settlements. This generally refers to the lack of tenure security of the land that has been occupied. The socio-economic characteristic such as literacy, education, health, employment of informal settlers is mostly poor and leads to the poor quality of living and housing conditions. The physical characteristic of these settlements are generally precarious. The inadequate public services such as water supply, electricity, roads, drainage, and absence of open spaces have made the areas resembling the characteristics of slums (Srinivas 2005; Fernandes 2011). Among the three characteristics, the legal/institutional issues are dominant characteristic as it is affecting the socio-economic conditions of settlers and physical conditions of the settlements. The public investment in infrastructure is often discouraged in this settlement. The reasons are in twofold. Firstly, such settlements are ineligible for investment and secondly, public authorities are in fear that the public investment might constitute tacit recognition of occupancy rights and encourage further illegal settlement (Fox 2014).

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3. LEGITIMACY AND “ACTION SPACE” IN A CONTEXT OF SQUATTER SETTLEMENTS

3.1 Legitimacy, Land Tenure and Informal Settlements

Legitimacy is defined as “a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed systems of norms, values, beliefs and definitions”(Suchman 1995). Legitimacy, in its context has various definitions. Among various types of legitimacy, *Legal legitimacy* and *Social legitimacy* as mentioned by (Thomas 2013) are incorporated in this study. *Legal legitimacy* is binding to the normative framework which basically refers to laws, policy, and rules. There is always a legal system to verify *legal legitimacy*. Similarly, *social legitimacy* is an empirical concept, which considers legitimacy as social facts and does not rely on a legal “normative framework”. This type of legitimacy specifically lies with the powerful people who believe to be morally or legally justified, even if those beliefs bear little relationship to the realities of power.

Looking through the perspective of legal legitimacy, land tenure (securing and transferring rights) backed up by legal documents is one example. This can take the form of a land owner certificate of possessed land, even though it is a narrow concept of land tenure security. Land tenure is one of the functions of land administration (Deininger 2003). It is “*the way land is hold or owed by individuals and groups, or the set of relationships legally or customarily defined amongst people with respect to land*” and land tenure security is “*right of all individuals and groups to effective government protection against forced evictions*” (UN-Habitat and GLTN 2008). Moreover, land tenure security is also about the assurance of bundle of one or more rights such as occupancy, transfer, restrict, inherit, develop, rent, investments, credit. Besides land tenure, there exist other functions of land administration such as land value (valuation and taxation of land), land use plan (planning and control of the use of land) and land development (implementing utilities, infrastructure and construction planning), and these operate within a legal framework for ensuring legal legitimacy.

Apart from legal legitimacies, there exists social legitimacy in the land administration functions. “*Failure to give legal backings to land administration institutions that enjoy social legitimacy can undermine the ability of people to draw on anything more than informal mechanism for enforcement*” (Deininger 2003). However, social legitimacy provides informal settlers with social recognition of settlement in the area. But land tenure without legal backings is always insecure to the informal settlers as they are under threat of forced evictions. The lack of legal legitimacy of informal settlements refers to lack of land occupancy certificates, unclear use rights and development rights and lack of legal cadastral maps.

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3.2 “Action Space” as a Context

The term “action space” is conceptualized with the relation between different actors acting for the collective goal (Harpham and Boateng 1997). The concept was applied by Foxon (2012) for analyzing governance interactions between three key groups of actors (government, market and civil society) and their underlying logics towards the particular issues which can influence the situation.

In this study, “action space” is applied to analyze the logics of government and civil society towards legitimization of the informal settlements. A framework developed by (Foxon, Hammond et al. 2009) provides the basis to analyse the dominant actors. This framework identifies actors deemed to have the most “power” even though this seems to be of ideal types. If the government is deemed to be powerful then dominating factor is “regulatory compliance”. The other actors simply comply within the regulatory framework. In case of informal settlements, if government activities are executed under a strong legal framework and policy, the other actors such as civil society are “onside” to enable policies to succeed for the legitimacy of informal settlements. Then government seems to be the dominating actor. Similarly, the other way around, if civil society actors held more power the question regarding the activities of government and its legitimacy of such decisions raised. The protests and other forms of civil disobedience may follow here. Within this context, in this study, the action space with government actors and civil society actors is analysed regarding the legitimacy of informal settlements.

4. METHODOLOGY

The methodology adopted for this paper consists of firstly adopting action space as conceptual framework and secondly analyzing legitimacy of informal settlement from the empirical data collected in two sites in Kathmandu City of Nepal.

We adopted the concept of “Action Space” as a conceptual framework for analyzing legitimacy of informal settlements. The three major actors, government; market and civil society are usually involved on the “action space” from the viewpoints of urban land governance. Here we focus only government and civil society. The two cases have been selected to analyze the “action space” and legitimacy. The first case demonstrates the “action space” of government towards legal legitimacy of informal settlements by providing housing tenure while the second case demonstrates the role of the “action space” by civil society creating social legitimacy.

From the empirical data from the two case sites the primary and secondary data were collected during a field visit to Nepal in the year 2013 over a period of six months. The primary data was gathered using subsequent semi-structured as well as unstructured interview techniques at various levels of administrative scales (government organizations) i.e. national, local level, department level, nongovernment organization (NGOs/ INGOs). To capture the ground reality semi structured/ unstructured interview were conducted with

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leaders of civil societies who generally represent the grass root level. To obtain more in-depth information of a particular case, individual household survey has been conducted.

Due to the eviction threats from government to the informal settlers, it is not easy to enter the settlements. Therefore, strategies were developed to enter the settlements by creating a social network with the community leaders and individuals. A number of informal visits with community leaders are made to obtain trust with them that the data would be collected for the research purpose only. The household survey is generally facilitated by the community leaders.

5. EXISTING SITUATION OF INFORMAL SETTLEMENTS IN KATHMANDU VALLEY OF NEPAL

The “push” factors for rural to urban migration, specific in Nepal are natural disasters, livelihood issues due to the shortage of inherited land and the lack of alternative income sources. Similarly, “pull” factors are availability of health care facilities, schooling and employment opportunities, and also political backing to the illegal occupation of land. Despite these factors, the most significant cause is a decade long conflict between Maoist rebels and the monarchy- led government (Tanaka 2009). The rural to urban migration has increased population growth in the urban areas. The Kathmandu Valley, one of urban areas of Nepal, has grown almost three times higher than the average national growth rate (7% Vs 2.3%) (Shrestha 2013). This population growth and lack of access to land and housing for low income groups have triggered growth of informal settlements.

5.1 Decades of Struggle for Space by Informal Settlements

A tough former leader of squatter federation “*Hukum Badhur*” recalls his struggle over a decade: “*We are staying here for a decade. This land was derelict and when we settled here there were very less formal settlements. We made this land worth for settlement and constructed our house with immense struggle. We are serving the city also working for nominal wages. But government and people from formal area see us merely as illegal invaders. The politicians used us as a vote banks and played with our sentiments. Now we believe we need to fight for our rights and we are doing so*”(Tanaka 2009). Our field interview in 2013 indicates that due to lack of legal legitimation of these settlements, they are always in threat to lose their shelter. These settlers in many cases cannot prove their long term existence on the occupied land because of lack of migration certificate and land ownerships.

As shown in Table 1, 17 informal settlements existed in the Kathmandu Valley since 1985. The number of settlements has on increasing trend till 1998. In 2008, the number went down due to eviction during road project. In 2010, the settlements increased to 51. This data reveals that within more than two decades (1985 to 2010), the number of settlements increased by 66% excluding the evicted settlements. Four settlements were evicted between 1998 and 2008 for construction road. The genuine settlers who are

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evicted from the road project are resettled with cost recovery scheme but with subsidized mechanism (Lumanti 2005; Sengupta and Sharma 2009). However, the other existing settlements are not legally legitimized yet i.e. the settlements do not have land ownership certificate. In Nepal, land ownership certificate is the only form of security of tenure. The other forms of tenure security like occupancy rights, group rights, lease rights (UN-Habitat and GLTN 2008) have not been applied for legal legitimation in informal settlements. But the incremental trend of settlements reveals that although these areas are not legally recognized, some perceived security might have made people to come and stay informally.

Settled Year	No. of settlements in Kathmandu Valley
1985	17
1988	24
1992	33
1996	47
1998	49
2008	45
2010	51

Table 1: Settlements in Kathmandu Valley as per settled year

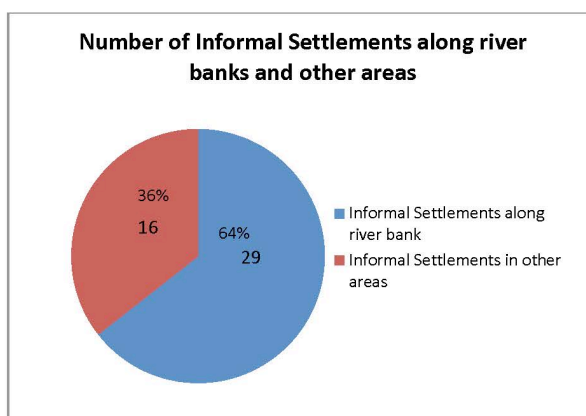


Figure 1: Settlements along river and other areas

Source: Lumanti (2001), "A situation analysis of urban poor communities in Kathmandu and Lalitpur"; Lumanti (2008) Status of Squatter settlements along different river and no river in Kathmandu Valley, Ministry of Physical Planning and Works (2010) Physical mapping of squatter settlements in Kathmandu Valley.

Similarly, while looking at these settlements location wise, more than 50% of the informal settlements were along the bank of rivers Figure 1. Due to lack of local level land use plan these areas do not have defined rights, restriction and responsibility regarding use of land. However, Government has started to manage the bank of river to prevent from illegal occupancy by constructing access road and drainage infrastructure. The plan is further to make United Nation (UN) Park. The initiative started as a project to conserve and restore Bagmati river jointly with National Trust for Nature conservation (NTNC) and High Powered Committee for Integrated Development of the Bagmati Civilization (HPCIDBC). One of the actions of this project is to identify the genuine informal settlements and relocate them and also to make land use plan along the river banks (High Powered Committee for Integrated Development of the Bagmati Civilization 2009). But how to provide tenure security with legal legitimation is not mentioned. Field interview with community leaders shows that settlers are ready to leave the part of the land they are occupying illegally for the infrastructure development but they are struggling for urban space and the tenure security from legal aspect.

5.2 “Action Space” for Legitimizing Informal Settlements

According to (Tanaka 2009), the initiatives from government towards legalizing the informal settlements becomes noticeable only after the informal settlers organized themselves and formed their social network among informal settlers. The initiative of government actors and civil society’s actors are briefly described.

5.2.1 Government actors and its “action space” towards legitimation

In Nepal, *Ministry of Land Reform and management (MoLRM)* are mandated for land registration and cadastre in general. However, there is no provision to register and indicate in the cadastre records the occupied land by informal settlers even the settlements exist for a decade. This leads to a lack of important land information creating hurdles for identifying the genuine settlers (Qian 2014). Under this Ministry, a politically appointed commission is formed to solve the problem of informal settlements, “*Sukumbasi Samasya Samadhan Ayog*”. The mandate of this commission is basically to identify the genuine settlers and distribute the land. However, field study shows the land distribution did not solve the issue of informal settlers.

Similarly, *the Ministry of Urban development (MoUD)* mandated for the infrastructure development, and land management of urban areas is involved in shelter provision of informal settlers. Recently, this Ministry has initiated low cost housing to resettle the informal settlers. The land is bought in one of the land readjustment projects. But the challenges for relocation of informal settlers in this area are twofold. First challenge is to identify the genuine informal settlers to be relocated and second challenge is the acceptance of informal settlers by local landowner of the readjustment project (Joshi 2014).

Third is the *Ministry of Federal Affairs and Local Development (MoFALD)*, which is directly involved with legitimizing the informal settlers at local level. Legally, the informal settlements do not have access to water supply, electricity and infrastructure development (road, drainage). To have access to these amenities, the proof by legal documents of land is required. However, provision of water supply and electricity by concerned authorities, in informal settlements, on the basis of recommendation provided by municipality is contributing towards social legitimacy.

5.2.2 Civil society and its “action space” towards legitimation

Besides government organization, the civil society organizations (NGOs and federation of groups from informal settlers) have somehow created the social legitimacy of the settlements. Nepal Basobas Basti Samrakchan Samaj (NBBSS), literally in English Society for Preservation of Shelters and Habitations in Nepal (SPOSH-Nepal) and Nepal Mahila Ekata Samaj (NMES)-Nepal Women’s Unity Society are two important informal settler’s federations facilitated by one of the NGO (Lumanti Support Group For Shelter), working in the sector of secured shelter for the poor.

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NBBSS was established in 1998 as ad hoc committee and was registered officially in 2000 as informal settler’s federation. The main objective of this organization is to safeguard the shelter rights and motto that settlers themselves need to build social capital. The social capital refers to the strong social network with informal settlements within Kathmandu Valley and outside the valley.

Similarly, the counterpart organization of NBBS is NMES which is a federation representing only female settlers from informal area. This one was registered in August 2000. Field study indicates that there are tendencies towards strengthening economic part of the settlers through three officially registered cooperatives by NMES in the Kathmandu Valley.

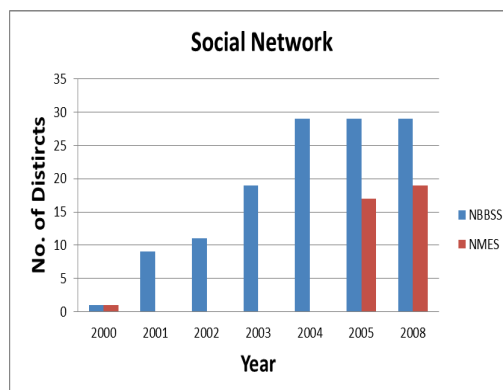


Figure 2: Number of informal settler’s

Source: adopted from Tanaka (2009)

Figure 2 shows the increase of social networking of NBBS and NMES in various districts of Nepal.

This is an “action space” of informal federations towards the social legitimacy (Asian Development Bank 2010). To strengthen the social bonding and to create more homogeneity in their advocacy, the NBBS and NMES is discouraging the illegal transactions of land (Tanaka 2009). But field interviews reveal that the discouraging of land transaction is still going on, however, it has not completely stopped.

5.3 Case Studies

The two cases are taken to analyze the “action space” of government actors and civil society. The first case highlights the government initiative towards legal legitimization. The second case highlights the social legitimization.

5.3.1 Case I: Initiative of government towards clearing invaded land and relocation plan

The government has made the intervention to clear invaded land by the informal settlers on the bank of river. With this intervention, on 8th May 2012, the settlement on the Thapthali area has been evicted. The eviction program was a part of a big government project, Integrated development of the Bagmati civilization (IDBC) to clean up the pristine river, the Bagmati river, the river which has turned into open sewer due to massive and unplanned urbanization (Kantipur 24th Feb 2012). In this area, there are two settlements namely “paurakhi basti” and “kuriya gaun” which were evicted. This case describes the “action space” of government towards legitimacy of informal settlements and how the social legitimacy can affects the relocation and resettlement plan.

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5.3.2 Case II: The process of land invasion

The Bansighat is another settlement targeted for the resettlement after the relocation of Thapthali settlement. However, the failure of government to resettle the evicted Thapthali settlement has prevented this Bansighat settlement being demolished. The case shows the “action space” of informal settlers towards social legitimacy in the process of land invasion

6. ANALYSIS AND DISCUSSIONS OF THE “ACTION SPACE” AND LEGITIMACY

In this section, the action space of government actors and civil society for legitimacy of informal settlements is analyzed. Within the framework of action space mentioned in section 3.2, further discussion is done regarding dominant actors.

6.1 Case I: Analysing and discussing the initiative of Government Towards Clearing Invaded Land and Relocation Plan

Image analysis: Figure 3 shows the existence of settlements. The kuriya gaun existed since 1981 (Lumanti, 2008) and the image of 2001 shows its existence while the paurakhi basti is the new settlement. The settlement existed after 2006 only. The image of 2012 shows that both settlements existed and image of 2013 shows the settlements after eviction. In this eviction case, it reveals that both newly established as well as old settlements were treated in similar manner for legal legitimacy.

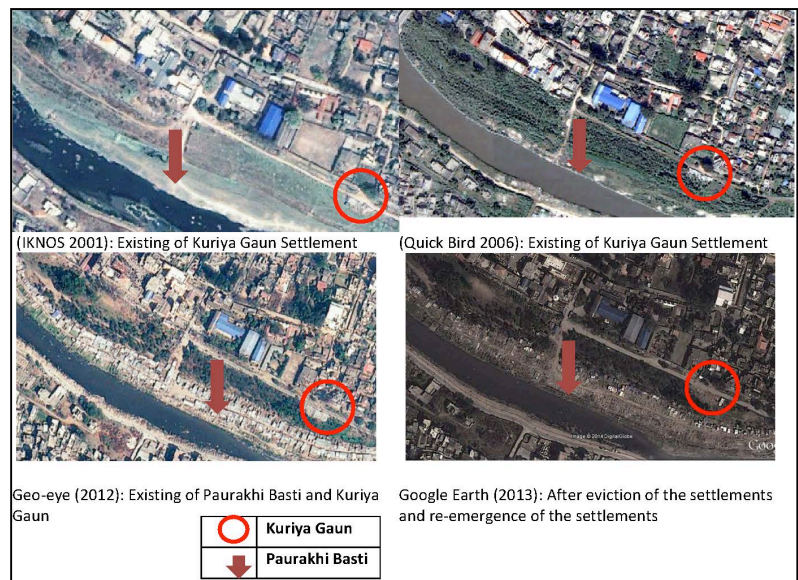


Figure 3: Visualization of settlement existences in 2001, 2006, 2012 and 2013

Government initiative before eviction:

The start of the clearance of invaded land along Bagmati river was conducted with the process of identifying genuine informal settlers. To make the identification of genuine settlers, the Ministry of Physical Planning and Works (MoPPW) made the mandate to Department of Urban and Building Development Construction (DUDBC). Division office Kathmandu which is under DUDBC started collecting data of genuine squatters. The notice was given with a deadline of 7 days to fill in the form declaring being landless. The

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form consists of information regarding family background, year of existence and place of migration with citizenship certificate as mandatory document to be submitted. The record of department shows that 1084 out of 8000 families residing alongside the river had registered themselves as being genuine landless. In the next phase, government published the second notice to provide application to obtain Rs. 15000 (\$150) as compensation for temporary shelter for three months. It seems that out of 1084 settlers, 190 have given the application for the compensation. To verify the data obtained from the settlers, the government decided to enter into the Thapthali settlements. On 12th April 2012, representatives from government organization went for field verification. After completion of field verification of 39 household in the Thapthali area, the further procedure has been interrupted by the group of 50 to 60 people. The government could not further proceed the process of verification. However, the verified 39 families were approached to take the compensation money but not a single family appeared (Nepal Government 2013). The government requested the settlers to leave the area several times before the forceful eviction took place, but the settlers did not take the threat seriously. On 8th May 2012, the Thapthali area was bulldozed early in the morning using armed force. More than 200 houses were demolished (Kantipur May 13th 2012).

In this case, the “action space” was not provided to the community organization during identification of genuine settlers. The interruption during the verification stage reveals that the process is not backed by the legal framework. The proof of existence in particular land and also not owing the land elsewhere were the criteria’s set by government to declare the genuine settlers. But it was difficult to verify this information. This is the results of lack of regulatory framework to incorporate these settlements in the land registration and cadaster system. Referring to the theoretical framework of action space from section 3.2, it is revealed that due to weak regulatory framework, the civil society is deemed to be powerful.

Civil society initiative before eviction:

The interview data from the president of SPOSH reveal that civil society played a vital role in not registering in the government database. He added that the strategy for relocating was not clear to them. They do not want to compromise on the advocacy they are doing for the rights to shelter and their struggle for space. The amount that government has declared does not seem relevant for safe shelter. Therefore, only a handful of settlers went to register at the end hoping to get Rs. 15000 (\$ 150). The activities of eviction took place early in the morning. The people did not get enough time to bring their belongings to safe place, and other settlers are not able to mobilize to protect the settlements.

According to the Asian Human Rights Commission (2012), there is no proper relocation plan and also no coherent and comprehensive survey of the number of households affected and there is a lack of participatory planning involving the settlers. Due to the lack of a clear land policy and shelter policy for informal settlers, the “action space” of the government seems less dominant. In this case, the federation created its “action space” by making the settlers to refuse registering for the allocated shelter amount. Since, shelter

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policies and plan of the government not strong enough to provide tenure security, the civil society has tried to dominate the government activities.

Consequences after eviction:

After eviction, the 67 household requested the compensation of Rs. 15000 (\$ 150). Among the 67 families, 58 were given the compensation money as the 9 families were not able to provide the citizenship certificate (Nepal Government 2013). To resettle the evicted settlers, the land of Himlal Cement Factory in Chovar at Kirtipur municipality, which has been defunct since over a decade has been selected. But the local residents of Chovar protested against relocating the squatters. The government had to drop the plan for relocating in this area (Kantipur 14th May 2012). In the meantime while the government was searching for areas to resettle those 250 evicted families, around three dozen families were residing in tents in the Thapthali itself (Kantipur 23rd May 2012). In the next stage, land in the Sundarighat area in Lalitpur was selected for resettlement of the registered 58 families only. 58 temporary huts costing Rs. 2.2 million were built on vacant land at Sundarighat, which was previously acquired by government for the construction of a sewerage system. Now, locals of Sundarighat did not welcome the evicted informal settlers. Firstly, they are not allowing the government to use the land for a different purpose and secondly the locals perceive the informal settlers will spoil their environment. On the other hand, the evicted settlers refused to shift till the government gives them guarantee of their tenure security in the new place and demanded a resettlement plan for the unregistered settlers as well. Finally, government also dropped the plan to resettle at the second chosen area. Moreover, the issues were handed over to Kathmandu Valley Town Development Authority (KVTDA). Finally, another plan of resettling them on the river bank itself in the existing other settlements was launched. The nearby three settlements namely Bansighat, Sankhamul and Manohara were selected. The decision was against the policy of High Powered Committee for Integrated Development of Bagmati Civilization (HPCIDBC) as the project mandate was; to vacate the encroached land to construct drainage along the river. With no alternative site, KVTDA was compelled to relocate in the existing informal settlements and not only the registered 58 settlers, but also the unregistered settlers. After relocating 13 families in the existing Manohara settlements, the settlers came up with a demand to provide the facilities of water supply, electricity, drainage and housing in their area. The protests from the existing informal settlers led to the evicted family ending up in the same place from where they were evicted.

Here, the “action space” is created by the local residents who are opposed to the relocation plan. Due to lack of policies for legal legitimacy of informal settlers, a lack of social legitimacy from local residents exists. Due to this, government seems to be dominated by local residents while trying to implement the relocation plan. As mentioned by (Tanaka 2009), mechanisms to fill the gap between formal and informal settlers are required for the acceptance of relocation projects.

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6.2 Case II: The Process of Land Invasion

The image analysis between (1992 and 2013) as shown in Figure 4 depicts that the settlements in these areas have not been settled at once. This settlement was identified to be established in 1982 (Lumanti and GTZ 2008; Ministry of Physical Planning & Works 2010). As shown in Figure 4, in 1992 there are a few houses erected illegally on the vacant land. The area covered was 604 m². In 2001, the area occupied was 13289 m². And in 2013, the area had increased more.

According to (Asian Development Bank 2010) and field interview, the informal settlements started by occupying a small area of vacant land. First land invasion started by erecting small huts. If the authorities do not put any restriction for staying there, the family starts slowly

improving the dwellings and other families also joins. The dwellers occupy the rest of the vacant land. After having a significant number of households, they will contact authorities for utility services. Availability of services in informal area directs towards social legitimacy (Shrestha 2013).

The results of questionnaire survey with 47 respondents are shown in Figure 5. It shows that the land has been “occupied by themselves” by many and also “bought from somebody” by others. Besides this, the other ways of occupying land are “refer by others to stay there”, received after marriage”.

When analyzing “action space” of informal settlers towards illegal land transactions, it shows that although there is no legal legitimacy of land tenure, but the social legitimacy for tenure security exists. The long term occupancy and availability of services from local authorities are also factors contributing towards social legitimation (Asian Development Bank 2010). Due to this social legitimation, the land invasion grows between 1992 and 2013.

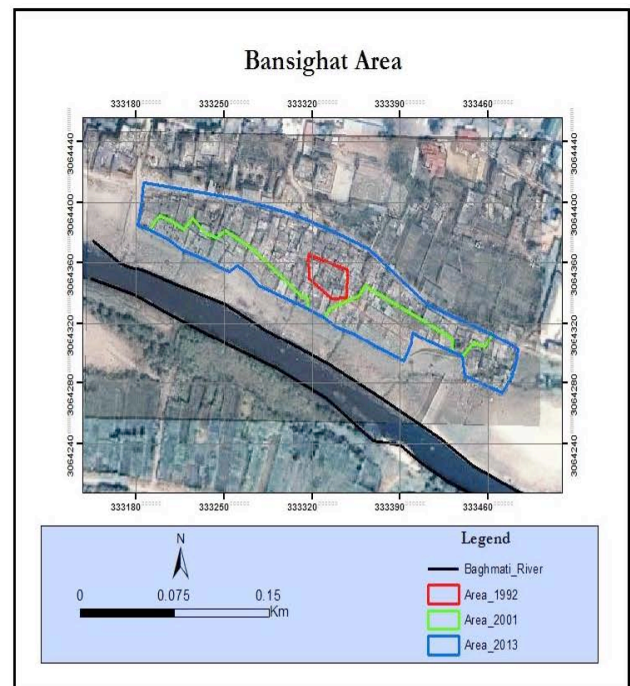


Figure 4: The growth in “Bansighat settlements”. Source: (Wijaya 2014)

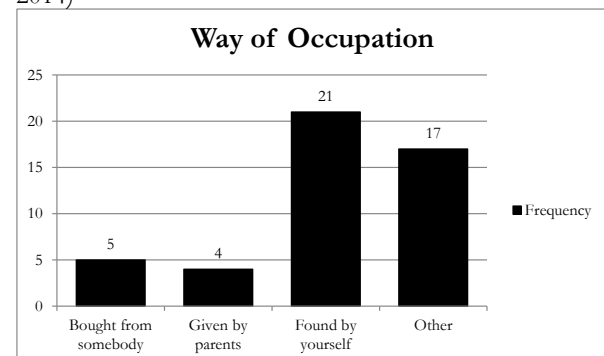


Figure 5: way of occupying land in Bansighat Settlements. Source: (Wijaya 2014)

7. CONCLUSION

From the above two cases in the context of “action space” and legitimation, the study reveals that the informal settlers and its federations have gained much social legitimacy by occupying informal settlement areas. The local government provides utility services to the informal areas, and this has further contributed towards social legitimacy. The social legitimacy of the informal settlers among the residents from the formal settlements is weak and resulted in the problems for resettlement of informal settlements.

Similarly, when looking to the “action space” on the side of government towards legal legitimacy, there is no clear land policy and shelter policy which address issue of informal settlers. The lack of land policy to recognize the informal settlers in land registration and cadastral system hinders the legal legitimacy. Moreover the lack of organized actions between various government organizations has allowed the space to politicize the issue of informal settlers.

Finally, we can conclude from the analysis of the case studies that the dominant factors for the lack of legal legitimacy are lack of land and shelter policies, lack of land information systems to find out genuine settlers and lack of mechanism for access to land and housing for low income groups. Similarly, the dominating factors for lack of social legitimacy are the non-acceptance of informal settlers by formal settlements. Therefore, land development tools which address these factors affecting legal and social legitimacy of informal settlements are important.

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