Urban Land Governance:
"Action Space", Legitimacy of and Intervention Strategies for Urban Informal Settlements in Nepal

Reshma Shrestha [a, c], Arbind Tuladhar [a,d], Jaap Zevenbergen [a,e], and Mahesh Banskota [b,f]

[a]Faculty of Geo-Information Science and Earth Observation of
the University of Twente 7500 AE Enschede, Netherlands
[b]School of Arts, Kathmandu University

`r.shrestha-1@utwente.nl`[c], `a.m.tuladhar@utwente.nl`[d],
`j.a.zevenbergen@utwente.nl`[e], `mbanskota@ku.edu.np`[f]

Abstract. *At the global level, the informal settlements are in a dichotomy of legal and illegal debates. This paper analyzes the issue of informal settlements from the legitimacy perspective. It reveals that, although the settlements are not in legal legitimacy, there is tendency of social legitimacy. The challenges of urban land governance are in how to minimize the gap between legal legitimacy and social legitimacy. Firstly, this paper explores on how the actions of government and non-government organizations contribute towards legitimacy. To achieve this aim, the analytical framework of "action space" is applied. Secondly, it focuses on identifying intervention strategies that narrow the gap between legal legitimacy and social legitimacy. We studied two cases of informal settlements: the first is to explore the gap and the second is to explain the intervention strategies. The results show, that due to lack of "action space" of government actors towards legal legitimacy, the civil society actors created their own "action space" which ultimately triggered social legitimacy. In addition to civil society, the actions of local authorities are found to contribute towards social legitimacy as well. To narrow the gap, the identified intervention strategies are discussed within the scope of land policy, land tenure security and land development.*

Keywords: Informal settlements, "Action Space", Legal legitimacy, Social legitimacy, Intervention strategies

1   Introduction

Urban land governance faces major challenges in handling the issues of informal settlements as there is an unclear demarcation of acceptance and non-acceptance of these settlements. The challenges are basically a) how to manage existing informal settlements and their future growth, and b) how to balance diverse

stakeholder's needs in solving land and housing issues of informal settlements and how to provide land rights to informal settlers (Palmer *et al.*, 2009). Informal settlements are often born due to lack of access to land to fulfill the shelter needs. The lack of access to shelter is generally attributed to the expensive and lengthy processes of land and housing markets often caused by weak land governance (Potsiou *et al.*, 2009). Due to the lack of access to land for shelter, the migrant population starts illegal occupancy of vacant land - often public land -where there is less fear of being dislodged than from private land (Aiken, 1981). The issues in informal settlements are multidimensional covering socio-economic, physical and legal aspects. The socio-economic characteristics relate to health, literacy, and employment; physical characteristics refer to public services such as water supply, electricity and drainage; legal characteristics refer to legal documents for occupied land (Wekesa *et al.*, 2011). Lack of legal recognition due to the absence of legal documents of occupied land is a dominant variable for informality. Indeed, informality does not just occur outside the formal system, instead it occurs due to weaknesses of the formal structure such as land laws and policies (Porter *et al.*, 2011). Conceptually, urban informal settlement is in a "grey space" (Wigle, 2014), the space positioned between "whiteness" of legality and "blackness" of eviction. This grey space represents a blurred boundary between legal/not legal and acceptable/not acceptable (Roy, 2009). In this grey space, there exist some types of legitimacy of informal settlement from the perspective of land rights (Palmer *et al.*, 2009). Within this dyadic dichotomy, this paper argues that informal settlements are in fact intertwined with several sorts of legitimacy, and the challenges for urban land governance are embedded in legitimacy.

The challenges that governance structures face as regards urban land governance is about enhancing legitimacy (Stoker, 1998) for providing security to informal settlers. When talking about legitimacy, one can refer to different aspects. In this paper we refer to two types of legitimacy: legal legitimacy and social legitimacy (Thomas, 2013). Several studies revealed that despite the lack of legal legitimacy, such as legal land title of occupied land, the settlers perceive some degree of tenure security that is reflected in their improvement of dwellings (Earle, 2014; Payne *et al.*, 2009; Usamah, 2013). The rationale of this perceived security is described as an outcome of the tolerant attitude towards land invasion, the provision of utility services from local authority and the development program of non-government organizations (Durand-Lasserve, 2006). The perceived tenure security relates to a perceived land right of occupied land that comes from social legitimacy (Palmer *et al.*, 2009). In the context of land issue, Deininger (2003) mentioned "*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*". Further, Thomas (2013) highlighted that it is important to minimize the gap between legal legitimacy and social legitimacy for the effectiveness of a legal system. Within this context, enhanced legitimacy refers to the minimized gap between legal legitimacy and social legitimacy. So far, no study has been carried out along the lines of enhanced legitimacy for informal settlements.

To understand the gap between legal legitimacy and social legitimacy, it is important to analyze the governance patterns in informal settlements. The governance patterns basically refer to the actions of various actors like government, civil society and market actors and their dominant position in that period of action (Foxon *et al.*, 2009). The scope of this study lies in the interaction between government and civil society. As observed in the literatures, Rip and Joly (2012) described that governance is connected with a space in which an interaction between actors takes place, Gaventa (2005) explained governance patterns by referring to space as invited space or claimed/created space in the policy dialogue with civil society and Harpham and Boateng (1997) mentioned the importance of locating "action space" for civil society in urban governance. However, the analytical concept of "action space" to analyze governance patterns was introduced by Foxon *et al.* (2009). Though the concept considers three key actors, government, civil society and market, the framework provides the potential to analyze the interaction between each combination of actors through their inter-relationship (Foxon *et al.*, 2009). The most effective enroller defines the dominant form of governance in that period of action by pulling the "action space" towards their logic which results in some sort of legitimacy from that action. This concept has added value to analyze the dynamism in governance patterns by analyzing the push and pull within the "action space" between government and civil society. Therefore, we refer to the concept of "action space" in our study to analyze the interaction between government and civil society that has resulted in various types of legitimacy, ultimately creating the gap.

Therefore, the aim of this paper is twofold: a) to analyze how the "action space" of government and civil society creates a gap between legal legitimacy and social legitimacy and b) to identify intervention strategies to minimize the gap. We adopted a case study approach as research methodology and selected two case studies in Nepal. In the first case, "action space" and its relation to legitimacy are analyzed and in the second case we identify intervention strategies.

The second section presents a definition of informal settlement in the country context. In the third section, the research methodology is presented. The fourth section presents the theoretical background on urban land governance and legitimacy, followed by the theoretical base on elements of urban land governance and intervention strategies in the fifth section. Two case studies are subsequently presented in the sixth section The seventh section presents the discussion on the "action space" of the actors that contributed to the gap between the legal and social legitimacy and relevant intervention strategies to minimize the gap. Finally, this paper concludes with a reflection on intervention strategies and the further research that is needed.

2   Informal Settlements in Context

The term "informal settlements" has a broad meaning and is known in various terms such as slums (Huchzermeyer and Karam, 2006), shanty towns (Lloyd, 1979), squatter settlements (Willis, 2009). Slums are characterized by lack of basic services and durable housing conditions, insufficient living spaces and

sanitation, insecure tenure, poverty and exclusion (UN-HABITAT 2005). Shanty towns are characterized by low quality buildings made out of materials (such as corrugated irons, plastic, and cardboard), lack of proper utilities facilities. Squatter settlements resemble the physical characteristic of slums and, shanty towns but they lack legal land ownership documents. These settlements are usually named differently in different countries - bustees (in India), favelas (in Brazil), pueblo (in Peru), kampong (in Indonesia), barong-barong (in Philippines), setingan (in Malaysia), chumchaon bukruk (in Thailand) and gecekondu (in Turkey) (Suditu and Vâlceanu, 2013; Willis, 2009). In Nepal, informal settlements that resemble the characteristic of "squatter settlements" are termed "Sukumbashi Basti", meaning the settlements without official land ownership certificates. Settlers are termed "Sukumbashi". Based on official norms, "Sukumbasi" are those inhabitants who do not have legally occupied land elsewhere in the country. Besides "Sukumbasi" there are some older settlers referred to as "Swabasi", a term that literally means "dwellers staying by themselves", and while these settlers also lack legal land documents of their existence in the occupied areas, they do not refer to themselves as "Sukumbasi" (Tanaka, 2009). There is an unclear official definition for "Sukumbasi" and settlers do not accept the term "Sukumbasi" and its official translation (Moffat and Finnis, 2005). To overcome confusion, this paper uses the term "informal settlements" which refers to all settlements without formal land tenure.

3   Research Methodology

The research approach underpinning this paper is based on a case study approach (Yin, 2003) with a qualitative approach (Silverman, 2010) and the author's in-depth observations. Two case studies are conducted. In the first case study, the concept of "action space" (Foxon, 2013; Foxon *et al.*, 2009) is adopted as an analytical framework of the governance patterns and identifies the gap between legal legitimacy and social legitimacy within the scope of land and shelter policies, land tenure security and land development. In the second case study, we use the intervention strategies - being a prescriptive model or tools for solving existing or perceived problems (Elangovan, 1998) in informal settlement areas - to minimize the gap with bottom up approach. The framework consisting of urban land governance elements and indicators that is developed is based on literature. The settlers' preferences for urban land governance indicators were collected by applying a 5 point Likert scale.

A SWOT (strengths, weakness, opportunities and threats) analysis (Helms and Nixon, 2010) was carried out to obtain feasible intervention strategies in informal settlements. The SWOT approach is considered as a powerful strategic and environmental analysis tool applied to identify internal and external strategic factors (Babaesmailli *et al.*, 2012). Though some studies mention that conventional SWOT analysis has some shortcomings of ranking SWOT factors and strategies (Catron *et al.*, 2013; Shakoor Shahabi *et al.*, 2014; Yüksel and Dagdeviren, 2007), this approach has been applied successfully to a broad array of disciplines by integrating conventional SWOT approaches with other analysis approaches. For

example, Catron *et al.* (2013) have applied SWOT-ANP (Analytical Network Process) technique to assess the bioenergy situation in Kentucky; Comino and Ferretti (2016) have used the SWOT approach with a spatial indicator to support the strategic management of complex territorial systems; Shrestha *et al.* (2004) have employed SWOT-AHP (Analytic Hierarchy Process) to assess the effect of environmental, economic and social factors relating to decisions in silvopasture adoption. Similarly, by using SWOT approach Yan *et al.* (2015) have analysed land consolidation in China based upon SW and OT strategy while Yuan (2013) has used the SWOT approach for policy recommendation for construction waste management in Shenzhen city of south China based on the principle of 'maximizing strength and opportunities, transforming weakness to strengths, and minimizing threats'. It is evidently demonstrated by those studies that the SWOT analysis has a potential for investigating a problem from a strategic perspective and develop intervention strategies. Therefore, based on the SWOT factors with an approach 'maximizing strength and opportunities, transforming weakness to strengths, and minimizing threats' (Yuan, 2013), intervention strategies that minimize the gap between legal legitimacy and social legitimacy in informal settlements are identified in this study.

The first case study area is the "Srinagarka" informal settlement, located in the sub-metropolitan city of Biratnagar. The city is a main economic, industrial and administrative hub, situated in Koshi Zone of Morang district, in the eastern development region of Nepal. About 15% of the total households (38,358) in the city are identified as informal settlers (Biratnagar Muncipality, 2007). The "Srinagarka" settlement sits along the bank of the Singhe river and consists of 86 households. This case is considered to analyze the gap between legal and social legitimacy because the government has taken the initiative to distribute identity cards in this settlement.

The second case study area is the "Bansighat" informal settlement, located in the metropolitan city of Kathmandu, the national capital, situated in Bagmati Zone of the Kathmandu district, in the central development region of Nepal. Within two decades (1985 to 2010), the number of informal settlements in Kathmandu increased by 17 to 51 informal settlements including evicted settlements (Ministry of Physical Planning & Works, 2010). The "Bansighat" settlement sits along the bank of the Bagmati River and consists of 152 households. This case is considered to identify an intervention strategy because the government is considering an intervention to relocate the settlement.

Prior to the field work in both informal settlements, the authors developed contacts with the leaders of Society for Preservation of Shelters and Habitations in Nepal (SPOSH-Nepal) and Nepal Women's Unity Society (NEMS). SPOSH-Nepal and NEMS are informal settlers' federations advocating for shelter rights and creating a social network of informal settlers of various districts (Author, 2014; Tanaka, 2009). The empirical data for both case study areas were collected using open interviews with the government (27 respondents), NGOs (5 respondents), the INGO (2 respondents), reports from government and non-government organizations and unpublished literature. Interviews with 30 settlers

followed by group discussion were carried out in "Srinagarka" and with 47 settlers in "Bansighat".

4   Urban Land Governance and Legitimacy

4.1   *Governance, "Action Space" and Legitimacy*

The governance concept recognizes links between various government agencies as well as shifting responsibilities between public and private sectors. Each organization is dependent upon other organizations for resources and has to exchange its resources to achieve its goals (Rhodes, 2007; Stoker, 1998). Governments normally depend on the societal actors to achieve their goals, as the private actors, civil society groups and citizens have important resources as well as power to obstruct policy interventions. It is only through collaborative actions that societal problems can be negotiated and resolved (Klijn, 2008). Therefore, the governance concept emphasizes the involvement of private and civil society, besides government organization, in service delivery and resource allocation (Harpham and Boateng, 1997).

The involvement of the various actors and their actions defines the governance patterns i.e. state dominant, civil society dominant or market dominant and "action space" is an analytical concept that allows analysis of the various governance patterns (Foxon *et al.*, 2009). The pictorial representation of the analytical framework is shown in Figure 1. The concept is applied in order to understand the actions of the three key groups of actors (government, market and civil society) and their underlying logic for action. Here, logic refers to how each actor frames the specified problem according to its understanding. Ideally, each actor tries to pull the "center of gravity" of the action towards its logic trying to become the dominant actor within the governance patterns and form some sort of legitimacy from that action. Legitimacy is thus described 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). It is about tacit recognition, support, acceptance by those who are governed and has its context in different forms such as legal legitimacy and social legitimacy (Thomas, 2013).
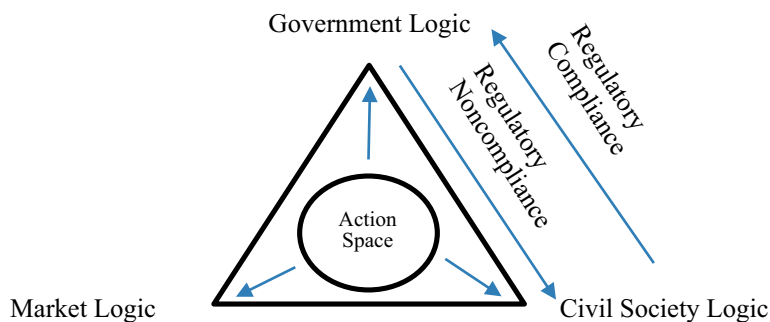
Figure 1: *Analytical framework of "Action Space" adopted from (Foxon et al., 2009) and modified by author.*

Legal legitimacy bounds up with the normative framework, with emphasis on national laws, policy, and rules. The action of actors in the governance structure triggers legal legitimacy when the actions are within legal norms and rules. Land policy and policy instruments determine space and boundaries for action i.e. "action space", in which various actors play their specific roles within the specified space (Candan and Kolluoğlu, 2008). Government actors can pull the "action space" towards their logic, triggering legal legitimacy and the other actors simply comply within the regulatory framework and are supportive to enable policies when there is "regulatory compliance" (Foxon *et al.*, 2009). For example, when government actions to regularize informal settlements are executed within the legal framework and policy is compatible with the social values and norms, then other actors, such as civil society, will support the policy and its implementation.

Unlike legal legitimacy, social legitimacy does not rely on the legal framework. It is an empirical concept that considers legitimacy as a social fact. The actions of actors in the governance structure trigger social legitimacy when there is a belief that the actions of an entity are morally justifiable, even though there is lack of strong legal norms to support this action. In fact, social legitimacy is derived from the socially accepted social norms (Rakodi and Leduka, 2004). It is also derived from broad societal acceptance, but without legal recognition (Palmer *et al.*, 2009). When we link this definition with the concept of "action space", we can see that social legitimacy is derived from action of actors under socially accepted norms. The "regulatory noncompliance" leads to a pull of the "action space" towards the logic of civil society (Foxon *et al.*, 2009). For example, limited access to land for housing via the formal sector results in the informal approach of housing which then has social legitimacy. It is morally justifiable from a human rights perspective as the Universal Declaration of Human Rights states that "everyone has the right to adequate standard of living including housing" (Enemark *et al.*, 2014).

4.2   Urban Land Governance and Legal Legitimacy of Informal Settlement

The "action space" of actors refers to the contribution towards legal legitimacy in urban land governance when the action is executed within the legal framework. A claim to occupied land by informal settlers has legal legitimacy when it is recognized in land policy and land law. This recognition of a claim shows the "action space" of the state for recognizing informal settlements, meaning that the rights for the occupants are acknowledged and that the government recognizes the settlements in legal terms (Aguilar and Santos, 2011). When the "action space" from the government is included in a policy or a law that recognizes informal settlements, the actions of other actors like civil society groups can easily comply with the logic of the government when achieving legal legitimacy of informal settlements.

The settlers of informal settlements where the eviction threat is high seek for legal tenure security. Legal tenure security gives legal status to tenure and the protection is backed up by the government, which results in legal legitimacy for the occupied land. Mostly, legal tenure security, which is categorized as de jure, is achieved by allocating land hold or possessory titles to the informal settlers.

Various studies show that the practice of providing individual complete titles turns out to be ineffective in the long run. The legal security of tenure is generally attributed to the property rights and the absence of this right leaves the settlers with legal insecurity of tenure (Van Gelder, 2010b). However, lack of legal instruments for the government to recognize informal settlements leads to lack of governments "action space" for legal legitimacy.

4.3   Urban Land Governance and Social Legitimacy of Informal Settlement

The "action space" of the various actors in urban land governance in order to overcome legal shortcomings often triggers social legitimacy. According to Durand-Lasserve (2006), there is a global shift in government action towards informal settlements, from non- recognition in the 1960's, to repression in the form of eviction (1970's and 1980's), to tolerance in 1990's. The tolerant attitude of government appears due to ineffective implementation of land and housing policies for low income groups and the lack of land use regulations, which restricts land invasion for informal settlements (Aguilar and Santos, 2011). The lack of "action space" for government in providing low income housing leaves the low income residents no other options than the informal mechanism for housing. When the relevant authorities fail to take timely actions against land use violation, the settlers occupy land for a long time. Long term tolerance of these settlements by the relevant authorities as well as by nearby formal neighborhoods, ultimately creates social legitimacy for informal settlers (Earle, 2014). Similarly, social movements from international organizations, NGOs are likely to pull the "action space". In this way they practice social legitimacy for security of tenure that protects settlers from eviction. This reveals from the definition of security of tenure proposed by UNCHS 1999, individuals "[..] *have secure tenure when they are protected from involuntary removal from their land or residence, except in exceptional circumstances, and then only by means of a known and agreed legal procedure, which must itself be objective, equally applicable, contestable and independent [..]"*cited from (Durand-Lasserve and Royston, 2002b).

The success in long term land occupancy without legal action from the concerned authority brings the perception of security that settlers would not get evicted and hence they perceive land rights in the occupied land (Shrestha, 2013). According to Palmer *et al.* (2009), the perceived land rights that generate from perceived tenure security ultimately refers to social legitimacy. Van Gelder (2010b) categorized tenure security in informal settlements as de facto and perceived. The perceived tenure security is a level of tenure security perceived by the settlers according to the likelihood of eviction. In contrast, de facto tenure security is the outcome of long term occupation, size of settlement, level and cohesion of community organization. Indeed, land tenure security (perceived or de facto), is the ultimate belief that comes from the social norms and values that occupying a piece of land is morally justifiable. Further, social norms for buying and selling of a piece of occupied land reinforce the perceived tenure security to new potential buyers. Similarly, the settlers' "action space" in the form of tacit approval of their actions by formal authorities also contribute towards social legitimacy of

this settlement (Nkurunziza, 2008; Van Gelder, 2010a). The tacit approval can be acceptance of informal institutions for infrastructure provision, electricity bills, and informal purchase contracts In short; the "action space" of various actors outside the legal framework of land rights ultimately triggers social legitimacy.

5   Interventions in Informal Settlements and Elements of Urban Land Governance

In developing countries, the government normally uses land policy intervention to regulate access, use and development of land in informal settlements. The intervention measures for the shelter issue are generally a provision of housing subsidy, a reduction of building standards, the use of low cost technologies and self-modes of housing delivery (Wekesa *et al.*, 2011). Though interventions towards informal settlements in urban areas are addressed as part of the shelter issue, it is often a struggle with regard to land to deal with access to land for housing or to deliver legal documents of already occupied land (Satterthwaite, 2009). Therefore, land policy intervention seem to be an entry point to tackle the issue of informal settlements i.e. access and allocation of land for housing for marginalized groups. The land policy determines the forms of land rights and level of tenure security that citizens can have. The land policy review of nine African and Asian countries shows that they contain recognition of informal settlements and avoidance of forced evictions (Van der Molen *et al.*, 2008). Eviction is not an appropriate intervention as the political costs are often high both internally and at an international level (Durand-Lasserve and Royston, 2002a). Therefore, there is a need of a paradigm shift in intervention from a reactive approach to preventive measures to address the need for access to land for housing for the poor as a long term solution (Augustinus, 2010).The reactive measure addressed in the land policies of nine African and Asian countries is to regularize existing settlements by upgrading or relocating the settlements in environmentally vulnerable land such as flood prone zones and the preventive measures are to constrain further growth of informal settlements through land use planning (Van der Molen *et al.*, 2008). However, it is important to refer to elements of good urban land governance to understand interventions in informal settlements.

The two key thematic areas of land governance, the legal and policy framework and urban land use planning in the land governance assessment framework (Deininger *et al.*, 2012), are relevant in identifying intervention strategies in informal settlements. The importance of the legal and institutional framework in addressing the issue of informal settlements is clearly mentioned in the study of Huchzermeyer (2003) and Wekesa *et al.* (2011). Weaknesses in the legal and institutional framework usually make it difficult to enforce interventions in the informal settlements. Therefore, recognition of land rights, enforcement of land rights and tools for recognition of land rights explained within the legal and institutional framework by Deininger *et al.* (2012) are selected elements of good urban land governance. Similarly, Aguilar and Santos (2011) and Shabane *et al.* (2011) have shown the importance of land use planning to tackle the issue of informal settlements. Land use planning is associated with land use control

like restriction and responsibilities. Therefore, transparency in land use control and equity in decision making with a participatory approach are considered urban land governance elements. Table 1 shows the relevant elements and indicators of good urban land governance within the framework of land governance assessment framework (Deininger *et al.*, 2012) . A brief explanation of each element is further explained.

Recognition of the land rights of existing land users in informal settlements is important at policy level for legal legitimacy. The legal recognition of this right should be flexible enough to accommodate different types of rights that can be upgraded. It is indicated that freehold title is not sustainable for tenure security in informal settlement (Payne *et al.*, 2009). One of the dominant rationales behind this is the risk of market eviction. In this regard, the Global Land Tool Network (GLTN) has proposed the use of a continuum of land rights to protect tenure security of the poor, including informal settlers (UN-HABITAT and GLTN, 2008). The approach of a continuum of land rights provides a path for the stepwise increment in legal legitimacy narrowing the gap with social legitimacy.

A tool for recognition of existing land rights is an important element of urban land governance in informal settlements, because lack of an appropriate mechanism to identify genuine right holders can carry a significant risk of land being concentrated in the hands of well-connected and powerful elites (Deininger *et al.*, 2012). Recognition of land rights requires an authentic proof of land occupation which is difficult to obtain in informal settlements. Therefore, alternative forms of evidence like electricity bills, tax receipts and long term occupancy can be approaches of recognition of land rights of settlers (Deininger *et al.*, 2012). In short, the Social Tenure Domain Model (STDM) (Augustinus *et al.*, 2006)2006 is identified as a tool to support the government in recognizing various types of social land tenures in informal settlements.

Transparency in land use control is another element of urban land governance which requires a participatory approach in land use planning and

Table 1. *Elements and Indicators of good urban land governance intervention strategies.*

Elements of urban land governance	Indicators of urban land governance
Recognition of land rights	Recognition of settlements Grant of land use rights Settlement rehabilitation for improved land tenure security
Land rights enforcement	Integrated relocation and compensation policy
Tool for land rights	Grant of secure tenure based on long term occupancy
Transparency in land use control	Attention to public input concerning land use planning
Equity in decision making	Participatory urban planning

regulation. A participatory approach of implementing land use regulation during land development implies that the legal requirements and standards, for example, minimum plot size, building standards and infrastructure standards should be affordable and compliant to the social and economic structure of settlement (Deininger *et al.*, 2012).

Equity in land related decision making is another element of urban land governance intervention strategies. Equity in decision making is a societal goal aimed at fair implementation of a policy without considering any form of preferential treatment of certain beneficiaries (Stone and Norton, 1997). Therefore, intervention strategies require the incorporation of social consensus and participation of informal settlers in decision making of any land development plan (Deininger *et al.*, 2012).

6   Case Studies

6.1   Case Study 1:Urban Land Governance and Legitimacy (Informal Settlement: "Srinagarka")

6.1.1   Land and Shelter Policies and Legitimacy
The interviews with the government officials revealed that the integrated National land policy is in a draft stage and the legal frameworks for land are the Land Act, 1964 and Land Revenue Act, 1978. Formulating a national land policy and implementing the national land use policy are mentioned in the thirteenth plan of National Planning Commission (NPC). The Land Use Policy 2013, approved by parliament, categorized land into six specific zones (agricultural, residential, commercial, industrial, forest and public areas). The Land Use Policy includes the need to identify adequate land to accommodate landless communities including those who have limited access to land, to discourage land development and to encourage relocation of settlements in vulnerable areas. Yet, there is no explicit mention of regularizing informal settlement or security of tenure. Similarly, the Land Act 1964 and Land Revenue Act, 1978, lack a clear provision on informal occupation of government and public land. However, the Land Revenue Act contains a penalty for registering government or public land for individual benefit, but it does not indicate any legal actions for informal settlement. The Urban Policy 2007 includes the provision of affordable land and dwelling units to low income groups (Ministry of Physical Planning and Works, 2007) . Similarly, National Shelter Policy 2012 (Ministry of Urban Development, 2012) reflects on the upgrading and relocating of informal settlements under collective ownership of land, distribution of identity cards and allocation of plots for low cost dwelling units. However, ineffective implementation of the shelter policy can be illustrated by the failure to resettle and manage one of the informal settlement in Kathmandu Valley (Author, 2014).The existing land laws do not allow government authorities to recognize the informal settlements on government land. The doctrine of "adverse possession" is not recognized in Nepalese law, but there is a provision for issuing identity cards to informal settlers as beneficiaries of land rights. This is done by

the politically appointed government commission known as Squatters Problem Resolution Commission (SPRC). SPRC is mandated to distribute government land and they expect 10 years of occupancy to qualify for the declaration of beneficiaries of land rights. Eleven SPRCs were formed in total until the year 2013. These commissions already distributed 73,3424 hectares of land to 71,512 informal households in various districts (MoLRM, 2013).

The lack of a policy that recognizes informal settlements that exist on government land means that "Srinagarka" settlement are not within the legal framework i.e. lack legal legitimacy. The interview with the local authority revealed that due to unclear institutional mandate, the local authority has developed a tolerant attitude towards informal land encroachment, evidenced by the existence of "Srinagarka" for several decades. In addition, lack of an effective policy for access to and allocation of affordable land and housing for low income groups left the local government with no alternative than to tolerate the settlement. It reveals that lack of a land policy and an effective implementation of the shelter policy lead the informal settlements towards social legitimacy.

6.1.2   Land Tenure Security and Legitimacy

The settlers do not have a legal document of occupied land (see table 2). Twenty three settlers mentioned that they have squatter identity cards distributed by the 11th SPRC and five settlers do not possess identity cards. This commission distributed 2,1343 identity cards in case study district (MoLRM, 2013). However, the interview with government officials revealed that the distribution of identity cards was carried out in an ad-hoc way without identification of the genuine settlers. The criteria set for genuine settlers are that there should not be any registered land in the settler/settlers' family members name in the country and that they stayed for more than ten years on the land. Yet, it seems difficult to verify the criteria due to current way of recording land information. Besides the identity cards of the 11th SPRC, the settlers have identity cards issued by SPOSH-Nepal as well.

As indicated in table 2, most of the settlers mentioned that they have been living for more than 20 years on the land, and they believe that they acquired land rights after staying for decades. Regarding access to a piece of land eight respondents mentioned they purchased the piece of place from the previous settlers, 16 occupied the place by themselves, two were to occupy the land referred by others, and lastly three had the place given by the relatives. This study shows that there is a trend of informal buying and selling of houses and it is for the occupied space that money is being paid. The proof of buying and selling of an occupied space is guaranteed by the presence of the community head and witnesses. Regarding perceived tenure security, 10 settlers out of 30 settlers mentioned they feel protected against eviction while 19 settlers do not feel secure. Indeed, in a group discussion, settlers mentioned that they oppose any government intervention of eviction as they already have identity cards distributed by the government itself. This identity card is proof of their perceived land rights. Similarly, regarding humiliation from the formal settlers, 21 out of 30 respondents mentioned that they discriminate them and do not count them as legitimate occupiers.

Table 2. *Empirical data of "Srinagarka"ᵃ a informal settlement in security tenure aspect and actors action.*

Land Tenure Security Aspect	Results	Actor's and action
Legal document of occupied land	The settlers do not have a legal document of occupied land	SPRC has not distributed any land ownership certificate
Identity card by SPOSH	The settlers have an identity card from SPOSH	Distributed by Squatters Federation
Squatter identity card	23 respondents (Yes); 5 respondents (No); 2 respondents (don't know)	Distributed by SPRC
Settled duration	3 respondents (< 5 years); 1 respondent (5 to 10 years); 7 respondents (10 to 15 years); 2 respondents (15 to 20 years);15 respondents (more than 20 years) ; 2 respondents (No answer)	Lack of timely action from concerned local authority to clear the settlement
Access to piece of occupied land	8 respondents (Bought from somebody); 16 respondents (Found ourselves); 3 respondents (Given by relatives) ;2 respondents (Referred by others) 1 respondent (No answer)	Buying and selling of occupied land
Secure from eviction	10 respondents (Yes); 19 respondents (No); 1 respondent (No answer)	Settlers perception
Humiliation from formal settlers	21 respondents (Yes); 6 respondents (No); 3 respondents (No answer)	Action of formal settlers

Source: Field visit in December 2013.
ᵃ The "Srinagarka" resides in Morang District which is less effected district by the earth quakes that occurred on 25th April and 12th May 2015.

The study shows that the "action space" of SPRC as well as the settlers' federation has triggered social legitimacy. The 11th SPRC does not have a mandate to distribute land titles, only to distribute identity cards. Nevertheless, the action of this commission contributed towards social legitimacy among settlers themselves and it suggests government acceptance of their land rights. Similarly, the distribution of identity cards by the squatters' federation somehow reflects an increasing network of settlers. The number of district level federations is found to have increased from a single central level office of both SPOSH and NEMS in 2000 to 29 of SPOSH and 19 of NMES in 2008. The network of these federations is found in the case study city as well. The interview with the head of SPOSH for case district mentioned that the increasing social network is their weapon to

fight eviction. The social network contributes to social legitimacy of informal settlements. Likewise, looking to the action of formal settlers, we see there is no explicit mention of any protest to clear the informal settlement, except for some individual stigma for informal settlers. In fact, the informal settlement was settled prior to the formal settlement. The acceptance by the formal neighborhood somehow triggers the social legitimacy as well.

6.1.3 Land Development and Legitimacy

The settlement developed in an incremental way and found some level of tenure security. Statements of settlers like "w*e have stayed here when there is nothing but now we have managed to improve our community, the government cannot evict us and we will not go either"* reflect that settlers already perceive de facto tenure security. The houses were built according to settler's local knowledge without following the legal norms. Twenty four out of 30 respondents (see table 3) mentioned that they are not obliged to follow any building regulations. The road along the settlement was developed at the initiative of settlers themselves. Two NGOs, -Rural Road Network (RRN) and "Paropakar Samuha"- and the municipality contributed to the road development (DUDBC, 2008). The interview with the head of SPOSH for case district revealed that the district level settlers' federation has managed to get an electricity grid connection after lobbying with the concerned authorities. Similarly, the local government revealed that the utility services have been provided based on every citizens' right to basic services. The process to get electricity grid connection went as follows a) submitting an application to the president of Tole Lane Organization (TLO), which is a community organization, b) obtaining recommendation from the president of the urban community (representation of TLOs) and the former ward president, c) obtaining a recommendation from the municipality and registering the application by paying the application fee, d) finally submitting an application to Nepal Electricity Authority with payment of meter costs. In this whole procedure, the identity card of SPOSH is required. Since the settlers do not have legal documents of occupied land, the settlers were required to deposit of Rs. 1000 (equivalent to 1 US dollar) as a guarantee (DUDBC, 2008).

Two NGOs, Lumanti Support Group for Shelter (Tanaka, 2009) and Water Aid, have launched jointly the WASH (Water, Sanitation and Hygiene) program. The objective of the program is to rehabilitate tube well (a source of drinking water) to prevent ground water contamination, to encourage the construction of toilets and to raise awareness in sanitation. Out of 86 households, 70 households have a toilet and 16 do not have a toilet. Similarly, 62 households have a tube well and 24 households do not have one. According to the Water Aid program manager, water tap and sewage line connection needs land ownership certificate. The 2013 (fifth South Asian Conference on Sanitation) SACOSAN-V declaration, calls to "*Recognize the importance of sustainable environmental sanitation and hygiene in urban areas [....] for all urban dwellers, regardless of tenure* (Government of Nepal, 2013)*"*. This shows that utilities services like drainage and water pipe connection are justifiable for informal settlements.

Table 3. Empirical data in "Srinagarka" in land development aspect and actors action.

Land Development Aspect	Results	Actors Action
Permission to build house	24 respondents (No); 6 respondents (don't know)	Municipality is responsible for building by laws
Water supply/ toilet	Households with toilet (70); Households without toilet(16); Households with tube well(62); Households without tube well(24)	Lumanti Support Group for Shelter and Water Aid are active for WASH (Water Sanitation Hygiene) program
Electricity	Electricity is available	Able to get connection after recommendation by local government
Road	During field visit, first author observed the road along the settlement	Settlers involvement, financial support from "RRN" NGO, "Paropakar" NGO
School	During field visit, author observed the school building	"Paropakar" NGO contributed to the school

Source: Field visit 2013

Overall the case study shows that the "action space" of the informal settlers' federation in the process of obtaining an electricity connection as well as the local authorities' support of this, contributes to social legitimacy as the electricity is provided on the basis of the social value that every citizen has right to basic services. Normally a land ownership certificate is needed for electricity connection and is waived here. Similarly, the actions of NGOs in development activities such as road, school and awareness programs contribute to social legitimacy even though the settlements are not in the legal framework. Finally, this case study shows that there are gaps between legal and social legitimacy in the land and shelter policies, the perceptions of tenure security and the land development processes.

6.2   Case Study 2: Urban Land Governance and Intervention Strategies (Informal Settlement: "Bansighat")

After having understood the above gaps between the legal and social legitimacy, another case study in the Bansighat settlement in Kathmandu was studied. The interviews with the government respondents reveal that relocation of the Bansighat settlement is important because the settlement on the river bank is not environmentally suitable for residential use. Therefore, relocation is a potential intervention from the government perspective.

Table 4 shows the results of the urban land governance indicators based on interviews of the settlers (47 respondents). For each indicator, a weight for each question is assigned on a six point Likert scale ranging from Strongly Agree (SA), Agree (A), Not Agree or Disagree (NAD), Disagree (D), to Strongly Disagree (SD).

Table 4. *"Bansighat"[a] settlers' views in urban land governance indicators.*

Elements of urban land governance	Urban land governance indicators	Questions	SA (%)	A (%)	NAD (%)	D (%)	SD (%)	Respondents
Recognition of land rights	Recognition of settlement	Do you agree if the government recognizes the existence of this settlement?	59.5	10.6	12.8	4.2	12.8	47
	Grant of land use rights	Do you agree if the government grants use rights in a certain year for you?	13.0	58.7	13.0	4.3	10.9	46
	Settlement rehabilitation for improved land tenure security	Do you agree if the government has a plan to develop this settlement for you?	13.3	31.1	33.3	11.1	11.1	45
Land rights enforcement	Integrated relocation and compensation policy	Do you agree if relocation is accompanied by compensation?	2.4	19.0	7.1	38.0	33.3	42
Tool for land rights	Grant of tenure on long term occupancy	Do you agree if long time occupancy is an evidence to prove your existence?	44.7	39.5	10.5	2.6	5.3	38
Transparency in land use control	Attention to public input concerning land use planning	Do you agree if the government should give attention to your opinion concerning to your land?	19.5	56.0	17.1	7.3	0	41
Equity in decision making	Participatory urban planning	Do you agree that if the government makes a decision on your land without community participation, it will be success?	4.4	2.2	6.7	26.7	60	45

Source (Wijaya, 2014) and author in field visit in September/ October 2013.

[a] The Bansighat settlement was not effected badly by the earth quakes that occurred on 25th April and 12th May 2015, though it is situated in the effected district (Kathmandu District).

The SWOT analysis approach is applied to develop the intervention strategies. Internal environmental analysis is done on the strengths and weaknesses of the existing actions of government (explained in section 6.2.1). An external analysis is made of the opportunities and threats by using elements and criteria as shown in table 1 and by considering the settlers' views as shown in table 4. The detailed explanation is given in section 6.2.2. Finally, based on the SWOT factors as shown in table 5a, six intervention strategies are derived (see table 5b), following the principle of maximizing strengths and opportunities, transforming weakness to strengths, and minimizing threats (Yuan, 2013).

6.2.1   Internal environmental analysis

Our interviews' with governmental agencies suggest three main activities as strengths for resolving conflicts and three issues as weaknesses for handling informal settlement in Bansighat. As tabulated in Table 5a, these are discussed below:

6.2.1.1 Strengths

a) *Formulating a draft land policy and implementation of land use policy*
     The national land policy is being drafted whereas the land use policy is already in the implementation phase. The interviews with government and non-government officials reveal that issues of informal settlements should be addressed at policy level. The settlers of Bansighat shifted their houses away from the river bank in accordance with the municipal norms of land use restriction along the river bank. So, this shows that land use regulation and restriction can be an important instrument to control informal settlements.

b) *Constructing low cost apartments by acquiring land via land readjustment*
     There is an initiative taken by government to construct low cost housing to relocate informal settlers. About 4040 m² land has been allocated by DUDBC to relocate approximately 200 families with own financial contribution and subsidies. The land is allocated from the land readjustment project (Joshi, 2014).

c) *Initiating an integrated land development plan*
     Government has initiated an integrated land redevelopment plan to protect the Bagmati river and its tributaries by constructing an access road, sewer pipe lines, waste water treatment plants and a green belt along the river bank. The project is a joint effort by National Trust for Nature Conservation (NTNC) and the High Powered Committee for Integrated Development of the Bagmati Civilization (HPCIDBC).

6.2.1.2 Weaknesses

a) *Failure to resettle informal settlements*
     The action of government to clear invaded land along the river bank with a resettlement approach did not succeed. There was lack of legal instruments to tackle issues of informal settlements as well as absence of

a mechanism to involve civil society groups. This failure to resettle the evicted settlers has given the negative influence on existing settlements regarding the resettlement process and tenure security (Author, 2014).

b) *Tolerance attitude of the government towards informal land encroachment*
The Bansighat settlement has existed for more than two decades. The land invasion in this settlement increased about 21 times between 1992 and 2013 (Wijaya, 2014). This shows lack of responsibility by the local authorities for not timely implementing restrictions on land invasion, and showing a tolerant attitude. This attitude resulted in maturity of the settlement leading to social recognition instead of legal recognition.

c) *Lack of an appropriate tool to identify real informal settlers*
The set criteria to qualify for informal settlers from the government perspective itself are not achievable. Furthermore, despite the needs of real informal settlers, there is a tendency of occupying land by elite groups for their own benefits. The government is facing challenges to identify the real beneficiaries of the regularizing program. There is no appropriate tool to record details and authentic information of the settlers.

Table 5a. *SWOT Analysis.*

Internal environment		External environment	
Strengths		**Opportunities**	
S1	Formulating a draft land policy and implementation of land use policy	O1	Informal settlers' emphasis in participatory planning
S2	Constructing low cost apartments acquiring land via land readjustment	O2	Informal settlers' willingness to accept land use rights
S3	Initiating integrated land development plan	O3	Informal settlers' willingness to support government plan
Weaknesses		**Threats**	
W1	Failure to resettle informal settlement	T1	Informal settlers' unwillingness towards relocation and compensation policy
W2	Tolerance attitude of government towards informal land encroachment	T2	Informal settlers' demand for recognition of their land rights by titling
W3	Lack of appropriate tool to identify real informal settlers	T3	Informal settlers' demand for long term occupancy as a land rights tool

6.2.2   External environment analysis
The settlers' preferences on urban land governance elements and indicators, which are based on five Likert scale as shown in table 4, are incorporated to derive three factors as opportunities and three factors as threats, which are explained in the sections 6.2.2.1 and 6.2.2.2.

6.2.2.1 Opportunities

a) *Informal settlers' emphasis in participatory planning*

In the response to the indicator "participatory urban planning", most of the settlers (60%) reveal that it is important to have participatory decision making regarding the occupied land. The interviews with civil society organizations also mentioned that it is important to consider settlers' requirements to develop acceptable interventions. The willingness of settlers to join in participatory planning can be translated into an opportunity.

b) *Informal settlers' willingness to accept land use rights*

More than 50% of the settlers show positive responses towards the indicator "grant of land use rights". Though, the preference of settlers is for land titles, it reveals that alternative mechanisms for land rights that can provide legal tenure security for incorporating the settlement into the legal framework can be acceptable.

c) *Informal settlers' willingness to support government plan*

The majority of the settlers are neutral towards the indicator "settlement rehabilitation for improved land tenure security" for the occupied land. The settlers mentioned that they do not oppose the development plan for the country. However, the development plan should not have a negative impact on their livelihood. Therefore, the settlers' support can be translated into acquiring the occupied land for land development, taking the livelihood aspect into consideration.

6.2.2.2 Threats

a) *Informal settlers' unwillingness towards relocation and compensation policy*

The majority of settlers are not willing to be relocated even when it is accomplished with a compensation policy as more than 60% of settlers disagree towards the indicator "integrated relocation and compensation policy". The past failure of the government resettlement approach (Author, 2014) has resulted in low trust towards government actions. This is a threat for any government intervention to bring the informal settlement into the legal framework by relocation.

b) *Informal settlers' demand for recognition of their land rights by titling*

The settlers basically demand title registration of the occupied land. Approximately 60% of the settlers strongly agree to the indicator "recognition of settlement" by title registration whereas 12.8% of the settlers strongly disagree as they are aware that land titling is not a possible intervention that the government adopts for the settlements in the urban area. However, settlers' demand for land titles seems a threat.

c) *Informal settlers' demand for long term occupancy as a land rights tool*

There is no policy to recognize "adverse possession" as such. However, there is a belief among settlers that the government cannot evict those who have stayed for long period. More than 80% of settlers' agree

(44.7% strongly agree and 39.5% agree) to the indicator "grant of tenure on long term occupancy" mentioning that long term occupancy should be a criterion to recognize their land rights.

6.2.3   Intervention Strategies

Based on the above SWOT analysis, six main strategies are identified and shown in Table 5b, each intervention strategy is explained below:

a)   *Address issue of informal settlement in land policy and land use policy*
    To address the issue of informal settlement in land policy, it seems an important intervention strategy to maximize S1 and translate (O1, O2) to strengths. The existing draft land policy should address access to and allocation of land to low income groups and how to deliver land rights to informal settlers. The mechanism to recognize various types of land rights, such as lease, rent, and use rather than land title, can be a viable approach to incorporate informal settlers into the legal framework. Similarly, participatory land use planning and its implementation seem to be an appropriate intervention.

Table 5b. Intervention Strategies.

SWOT Factors	SO Strategies	SWOT Factors	WO Strategies
S1, O1, O2	Address issue of informal settlements in land policy	W1, W3, O1, O3	Interaction of government, civil society and informal settlers
S2,O3	Provide low cost housing with housing subsidy on relocation site		
SWOT Factors	**ST Strategies**	**SWOT Factors**	**WT Strategies**
T1, S3	Adopt convincing method to secure land tenure	W1, W2, T3	Enforce land use against land invasion
		W3, T2, T3	Adopt an approach to record occupied land

b)   *Provide low cost housing with housing subsidy on relocation site*
    To provide low cost housing with the mechanism of housing subsidy on a relocation site is a strength (S2) which can be maximized by incorporating opportunity O3. It reveals that allocation of land and housing facilities without financial obligations is not acceptable from the government perspective. Moreover, this practice can attract more informal settlers. Therefore, the government strength of acquiring land for low income groups can be translated into pro-poor market interventions such as subsidies and mortgages to afford land and housing in a relocating site.

While relocating settlements like Bansighat, it is important to understand the financial capacity. The settlers are demotivated in relocation, if their financial burden seems to increase on an alternative site.

c)   *Interact among government, civil society and informal settlers*
This intervention strategy is important to overcome existing weaknesses (W1, W3), incorporating the opportunity (O1, O3). There is a pressing need for intervention strategies to improve the interaction of urban land governance institutions. The mechanism of collaboration among government organizations themselves and also with civil society is essential to overcome conflicting interests. The clear mechanism to interact with local actors can support the government in identifying real beneficiaries translating the settlers' willingness to a participatory approach to overcome the weakness to minimize the gap. Similarly, the moderate willingness shown by settlers to support the development plan can be strengthened into an effective outcome when social norms and values that exist in settlements are integrated into the formal rules and regulations of the development plan.

d)   *Adopt a convincing method to secure land tenure*
The intervention strategy aimed at convincing the settlers to relocate to safer sites can overcome threat (T1) and maximizing strength (S3). To do so, settlers need to get land tenure security in terms of legal and social recognition. The availability of infrastructure facilities such as utilities services, access roads, schools, hospitals, and a local market incorporating an income generating mechanism in the resettlement site can be a convincing strategy. Without a source of economic livelihood, or better livelihood opportunity, the settlers cannot stay in the relocation site. Therefore, strategies to create jobs and other economic activities need to be developed.

e)   *Enforce land use against land invasion*
Enforcement of land use regulations and land use restrictions can be the intervention to overcome weaknesses (W1, W2) and to minimize threat (T3). The use of land along the river bank for example for the construction of a road or a park can restrict informal encroachment. The land use instruments can be tools for the responsible authorities to prevent a land invasion. It prevents long term occupancy and social recognition of the settlement.

f)   *Adopt an approach to record occupied land*
One of the biggest challenges facing the government is how to identify genuine settlers. This applies to the Bansighat case as well. The intervention strategies to record occupied land and settlers' information involving civil society's role can minimize threats (T2, T3) and transform weakness (W3). The mechanism to translate local information (such as occupancy periods, land access) into the legal framework should be on an incremental basis. Incremental approaches such as adopting other forms of land rights like occupation rights and use rights can be an effective approach.

7   Discussion

7.1   The "Action Space" of Government and Civil Society towards Legitimacy

The case study showed that there is a lack of explicit policy and policy instruments to regularize informal settlements. As highlighted by Candan and Kolluoğlu (2008), due to the lack of a policy, the government within "action space" limits its recognition of the existing settlements. As such the settlements are not legally visible in any form in the government data bases. In this situation, the political cadre and civil society tend to pull the "action space" towards their action plans. The political cadre created space in the form of a commission to fulfil the political commitment of distributing land to informal settlers. The commitment is usually done to attract votes during time of elections.

The politically appointed commission has been delegated with the power to distribute government land to informal settlers. The process follows the identification of beneficiaries within set criteria of the government, which is, a beneficiary should not have land registered in his/ her name as well as family members' name within the whole country. It was revealed in the case study that sufficient information to verify these criteria was difficult to obtain. It seems that there is "action space" for elite groups to prove themselves as beneficiaries. The criteria set by the government for identifying beneficiaries do not seem to incorporate social norms and values. Referring to Foxon *et al.* (2009), the civil disobedience towards the action of the government leads to a pull of "action space" towards the logic of civil society. Therefore there is pressure from civil society on government to redefine the criteria for beneficiaries at policy level.

The results showed a lack of effective policy implementation in providing land and housing for low income groups. As a result there is a trend of renting as well as buying and selling of occupied land to low income groups within the settlements on the one hand, whereas on the other hand the local authority seems to tolerate the settlements which have stemmed from the existence of the settlement for more than a decade. As described by Aguilar and Santos (2011), this result indicates that lack of "action space" of the government to provide low income land for housing results in a tolerant attitude as well as in informal settlers themselves pulling "action space" by creating an informal mechanism of access to low income land and housing. In fact, the tolerant attitude of government contributes social legitimacy (Earle, 2014). It somehow reflects that due to the gap at policy level between the legal as well as social norms to handle the issue of informal settlements, the "action space" of government actors is somehow dominated by civil society. Hence, despite the lack of legal legitimacy the "action space" of government as well as civil society is triggering social legitimacy.

The results showed that although the settlers do not have legal documents of the occupied land, the settlers do have perceived tenure security as well as de facto tenure security as highlighted in (Van Gelder, 2010b). The "action space" of the 11th SPRC in the form of a mandate to provide identity cards to beneficiaries, has developed perceived land rights, even though there is no "action space" for this commission to distribute land for identified beneficiaries. The perceived land

rights ultimately trigger social legitimacy (Palmer *et al.*, 2009). Furthermore, the formal residents in the vicinity of the case study area tend to stigmatize informal settlements but it was not revealed that there is hard core protest for clearance of the informal settlement by the formal settlers. In fact, informal settlers have de facto tenure security which is the outcome of long term occupancy, upgrading in the settlement and cohesion of community (Palmer *et al.*, 2009). This de facto tenure security further leads to social integration of the informal settlement into the formal settlement. The results showed that settlers have access to electricity. Legally, proof by a legal document of land is required for a connection to utility services. But international conventions like the Human Rights Declaration and also the National Constitution as well as Local Governance Act direct towards provision of basic services as a right of every citizen. The results showed that the identity card issued by the squatter federation is part of the process of recommending the informal settlers for electricity connection. The tacit recognition of this informal document by government contributes to social legitimacy (Nkurunziza, 2008). The development funding from national and international agencies also requires some sort of tenure security. Although, it did not show in the case study area, there seems to be a practice of acquiring documents from local government mentioning that the settlers will not be evicted without provision of an alternative site. In this regard, though, the development plan is not accepted from a legal point of view, but, it is socially accepted within the framework of international norms.

7.2 Intervention Strategies to Minimize the Gap between Legal Legitimacy and Social Legitimacy

The improvement in urban land governance institutions seems an important intervention strategy to minimize the gap. There is a need for cooperation between the government and civil society regarding the interventions relating to access to, and use of informally occupied land. The interaction between government and civil society is a crucial determinant for the success of any intervention (Krueckeberg and Paulsen, 2002). The lack of an effective mechanism of interaction and co-ordination between the government and civil society has resulted in the failure of government actions to regularize and resettle (Author, 2014). Therefore, for effective service delivery at local level, the "action space" of civil society and community leaders needs to be identified (Harpham and Boateng, 1997).

7.2.1 Formulate a policy to recognize existing informal settlement

The case study showed that absence of proper legal instruments and an unclear legal mandate restrict the government in taking timely action towards land invasions. The lack of immediate action leads to settlements getting mature, upgrading their shacks into concrete houses, developing community bonding which all contribute to social acceptance (Shrestha, 2013), in fact contributes to social legitimacy. The results reveal that the issue of informal settlements needs to be addressed in the land policy. The policy review of various countries by Van der Molen *et al.* (2008) reflects recognition of informal settlements in land policies, which determine the forms of land rights and the level of tenure security to be allowed to informal

settlers. Furthermore, policy instruments need a persuasive mechanism in case the settlements need to be relocated. The persuasive mechanism could be a provision of social and physical infrastructure at affordable costs, appropriate financial subsidies on the relocation site, adaptation of affordable building regulations, and an incremental approach to upgrading. One of the critical problems for the relevant authorities regarding informal settlement is the criterion to identify appropriate beneficiaries for any regularizing and relocating project to exclude elite groups who are searching for an opportunity to legalize informally occupied land. The norms set by the government are not acceptable to informal settlers. Therefore, an inclusive criterion for recognition of land rights of genuine settlers is important in order to minimize the gap between legal legitimacy and social legitimacy. Furthermore, those fake settlers who are rich enough to purchase land on their own but still live on government or public land without legal documents should be identified and forced to leave (Shrestha, 2013; Tanaka, 2009). Their existence causes a negative impression towards the authorities. In this regard, the incorporation of approaches like pro-poor land recordation (Zevenbergen *et al.*, 2013) at the policy level seems important while recognizing and enforcing land rights of informal settlers. Furthermore, the policy should recognize various types of land rights besides free hold title. The possibility to recognize informal settlers via providing them with various types of land rights fits well within the framework of approaches like the continuum of land rights (UN-HABITAT and GLTN, 2008).

7.2.2   *Provide land tenure security from legal, social and economic perspective*

Informal settlements located on the river bank are prone to disasters which affect the social well-being; nevertheless, settlers are reluctant towards relocation. The case study showed that intervention strategies aimed at convincing informal settlers to be relocated to safer sites with guaranteed secure land tenure is important. The study of Patel (2013) shows that the level of tenure security of informal settlers is connected to the social and economic structure of the settlement. Furthermore, Krueckeberg and Paulsen (2002) highlighted that the selection of sites far away from an existing settlement affects social and economic structure, leading to unsustainable relocation plans as there is ample evidence of vacant relocation sites. Hence, an integrated relocation approach considering the settlers' social as well as economic needs seems important. The application of tools like STDM to collect various types of social tenures that exist in informal settlements is important prior to providing legal recognition (Augustinus *et al.*, 2006)2006. Despite the tenure security from a social and economic perspective, legal tenure security by providing free hold title to informal settlements does not prove to be an effective intervention to formalize informal settlements though the settlers basically demand a free hold title. Moreover, interventions to provide land and housing without financial obligations seem to attract elite groups which are mentioned in the study of Shrestha (2013) as well. Therefore, intervention in the market from the perspective of secure tenure for low income groups seems viable. In the meantime, legal shortcomings to allow recognition of settlements by providing various types of land rights need to be overcome. Therefore, interventions to bring informal settlements into the formal setting based on the

concept of the continuum of land rights can be an appropriate measure. It aims at protecting the tenure security for the majority of people, including the poor from a broader perspective on tenure security (UN-HABITAT and GLTN, 2008).

7.2.3   Land development of informal settlement from the perspective of land tenure security

The land use regulations and restrictions for land development are an identified intervention strategy from the case study results to discourage land invasion. Although the settlements are along the river bank, incremental development and upgrading of the settlement is happening. The "action space" of the local government, non-government organizations as well as settlers themselves allows for the provision of utility services and physical development. This is found to contribute to the social legitimacy and to the reluctance towards resettlement when settlements are upgraded. Settlements which are not feasible to persist from the perspective of environmental degradation should not be allowed to mature. Immediate action from the relevance authorities should be taken, restricting the informal occupancy and controlling land invasion in environmentally sensitive zones. As highlighted by Augustinus (2010), besides a reactive approach it is necessary to adopt a proactive approach to control informal land development. Similarly, case study findings showed the persuasive approach with tenure security while upgrading as well as relocating to alternative safer sites seems important as a part of an integrated package of land development. When this is done, a donor driven project with an approach of relocation with minimal infrastructure in alternative location is critically opposed by (Huchzermeyer, 2002; 2003). He mentions that providing one-time capital subsidy to build a house in an alternative location is not a viable solution for informal settlements. The rigid standardization in building norms and plot sizes makes settlers insecure from an economic perspective. On the other hand, provision of infrastructure (water supply, drainage, and road) through a private developer increases the cost for the relocation plan as well as for upgrading. Land development needs to be carried out in a participatory way involving community members. This strategy leads communities to focus on development priorities, objectives and approaches within the financial capacity of the settlers. The provision of an integrated local technical expertise and tacit knowledge within the legal framework creates "action space" for the community which can bring effectiveness in service delivery (Harpham and Boateng, 1997). The provision of land and housing subsidies and low cost land for housing can be part of intervention strategies to relocate existing settlements as well as to prevent growth of informal settlements. According to Huchzermeyer (2002), the subsidies should be at the community level rather than for individual households.

8   Conclusion

This paper reflects on how the "action space" of the government and civil society creates the gap between legal legitimacy and social legitimacy, and presents intervention strategies that minimize the gap on legitimacy. The empirical evidence highlighted that "action space" of NGOs, civil society and local government is

directed towards social legitimacy, while the government "action space" directed towards legal legitimacy is less significant. While considering the "action space" of civil society, it points towards the social network created through the settlers' federations that have lent credibility to the social legitimacy of informal settlements. Similarly, the tolerance attitude from the government as well as formal settlers in the vicinity of informal settlements is another factor pointing towards social legitimacy. However, the lack of appropriate legal instruments on the one hand, and the increasing social recognition due to "action space" of government as well as civil society accelerating the social legitimacy on the other hand, has clearly created the gap. Hence, the challenge in urban land governance lies in tackling the land and housing issue of informal settlements by minimizing the gap between social legitimacy and legal legitimacy. In this context, this paper has further explored the intervention strategies to minimize the gap within the scope of policies, land tenure security and land development.

The land policy should address informal settlement by formulating a regularization policy taking social norms and values of informal settlements into account. On the other hand a policy intervention to control the growth of informal settlements is equally important. To implement policy interventions like upgrading and relocation, "action space" for local authority, civil society and NGOs needs to be clearly defined. Also a broader conceptualization of "tenure security" of informal settlements is important. The intervention strategies in land tenure security should incorporate an approach like the continuum of land rights instead of adopting land titling, since that approach has not shown to be an effective and efficient measure to handle the existing issue of informal settlements. The concept of pro-poor land recordation and the STDM should be implemented during the process of regularizing informal settlements to prevent elite beneficiaries to benefit from the state intervention. Instruments like land use regulations are important to restrict land development and provision of social as well as physical infrastructure in land not suitable for inhabitants. Similarly, intervention strategies in land development need to consider the limits in market acceptance of low income groups. This somehow concludes that interventions in the formal land and housing market are important to address the issue of informal settlements from the perspective of a proactive approach to restrict growth in informal settlements as well as a reactive approach to minimize the gap between legal legitimacy and social legitimacy.

This study focused mainly on two types of actors, government and civil society. The intervention strategies require recognition of the role and synergic collaboration of all actors (government, civil society, market) in urban land and housing development. Presently, it is clear that neither the private nor the public sector alone can tackle the issue of informal settlers. Since this research does not include the role of market actors and their interaction with other actors in the applied analytical framework, further research adding the market perspective in urban land governance for informal settlements is recommended.

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