Beyond the informal settlement: the land tenure situation of urban kampungs in Surabaya, Indonesia

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Abstract. Kampung occupies a significant role in urban settlements in Indonesia. The existing studies categorise urban kampung as informal settlements. However, using evidence from urban kampungs in Surabaya, this study rejects the perspectives that simplify urban kampungs as informal settlements. This study proposes a critical feature of informal settlement as a gauge: land tenure. The findings show that urban kampungs are too complex to be represented in the informal category. Urban kampung can be inhabited by residents with various land tenure beyond formal and informal dichotomy. Most urban kampung residents occupy land with the state (national) or customary tenure, which the state and society recognised. Administratively, they are also integrated into the city government services. Based on the findings, this study argues that simplifying urban kampungs into the informal settlement category is imprecise and potentially misleading.

1. Introduction
A fundamental limitation of the existing research on urban kampungs in Indonesia is how the kampungs are conceptualised. In the global discourse, kampungs are represented simplistically as part of informal settlements, such as Favelas (Brazil), Villas Miserias (Argentina), Barriadas (Mexico), Poblaciones (Chile), Bidonvilles (Africa), and Gecekondu (Turkey). In some references to urban studies, kampung and those settlements are also often described as slums [1–3].

Informality refers to "operating outside or on the margin of the regulatory context" [4] or "opposed to the laid-down rules or the accepted norms" [5]. The term "informality" was brought firstly into academic and policy discourse by Keith Hart [6], an urban anthropologist. He introduced the informal concept to describe the part of urban workforces in Ghana who work outside the formal labour market. Two years later, the International Labor Organization (ILO) reinforced the use of this concept in its study report in Kenya. According to ILO, "informal sector activities are largely ignored, rarely supported, often regulated, and sometimes actively discouraged by the government" [7]. Since this ILO publication, the informal concept has been used in various ways and may be confusing.

In the housing sector, the UN-HABITAT defines informal settlements as residential areas where 1) residents do not have secure tenure of the land or residence they occupy, with modalities ranging from squatting to informal rental housing; 2) the neighbourhood usually lacks basic urban services and infrastructure; 3) housing may not comply with planning and building regulations [8].

The legalist, a dominant approach in tenure study, places legality as the main issue in the tenure security debate [9]. The prominent proponents of this legalist approach are Hernando de Soto and the
think tank he founded, Instituto Libertad Democratica (ILD). The legalist believed that tenure security and its benefit could be obtained only by legal evidence from the formal system [10]. The proponent of legalist has courtesies into formal-informal and legal-Extra-legal categorisation [4,11] and leads the discourse of land tenure into a simplistic dichotomy.

In fact, there are many types of urban kampungs [12,13], yet it is perplexing to characterise that all urban kampungs are informal settlements. Researchers in informality studies have warned against the danger of generalisation [14]. The representation of urban kampungs into a single category, the informal settlement, is conceptually problematic and potentially misleading. It may lead to a simplification that cannot represent the real situation of urban kampungs. It may also suppress the ability to understand various potential kampungs as urban practices for city development.

This study aims to examine the generic concept of informal settlement on urban kampungs. This study proposes the main feature of informal settlements formulated by UN-HABITAT, the land tenure situation as its focus.

2. Method
This research employed a qualitative method. This research was conducted in two kampungs representing different locations and characteristics. First, Maspati kampung is located in Kelurahan or the sub-district of Bubutan, Kecamatan or district of Bubutan, Surabaya. Maspati kampung represents a settlement in the city centre and an old settlement that existed before the Indonesian independence era. Second, Jambangan kampung, located in the district of Jambangan, represents a settlement outside the city centre of Surabaya, a settlement that grew after the Indonesian independence era. This study focused on their land tenure situation. Land tenure refers to "the way land is held or owned by individuals and groups, or the set of relationships legally or customarily defined amongst people with respect to land” [15]. There are different types of tenure, and they may be based on written laws (by the state) or unwritten customs and practices.

Data collection was carried out during fieldwork in 2019. Primary data was collected by observations, interviews, and surveys. The informants included residents, community leaders, and the sub-district (kelurahan) officer. The secondary data included Law and government regulations regarding urban kampung. Data analysis was conducted by qualitative analysis.

3. Results and Discussion
3.1. Result
3.1.1. The profile of Maspati and Jambangan Kampung
Maspati kampung occupies a strategic location in Surabaya. They are located in the Bubutan Sub-district. Bubutan Sub-district occupied an area of 0.6 km². In the city development zoning, in addition to housing, Bubutan is included in Zone six designated for trade and government offices. There are at least two supermarkets, three shopping areas, three mini markets, and four hotels recorded in the statistics of Bubutan. We also identified hundreds of shophouses along the main road.

In the sub-district of Bubutan, there were 14,724 residents or 4,748 families. The average family size was about three people in one family. In regard to the economic aspect, many of Bubutan residents had a low income. The National Population and Family Planning Agency (BKKBN) and the Central Statistics Agency (BPS) have formulated the concept of Keluarga Sejahtera (PK), or the prosperous family. In Bubutan, there are 173 families in the Pre-KS group, 1,472 families in the KS-I group, 511 families in the KS-II group, and 591 families in the KS-III group 144 families for KS-III+. By definition, the Pre-Prosperous Family Stage (Pre-KS) is the population that cannot fulfil their basic needs. The Keluarga Sejahtera I (KS-I) can only meet their basic needs. The Keluarga Sejahtera II (KS-II) is a category for the family group that can meet both basic and psychological needs. The Keluarga Sejahtera III (KS-III) families are those who can meet the KS-II indicators and developmental needs. The Keluarga Sejahtera III Plus (KS-III+) is a family that can meet the KS-III indicators and self-esteem.
The data shows that most of the population (1,645 families) have a low income because they can only meet their basic daily needs (Pre-KS and KS-I groups).

Administratively, the sub-district of Bubutan covers nine Rukun Warga (RW) or Community Association and fifty-five of Rukun Tetangga (RT) or Household Association. One of them is RW-6, Maspati kampung. This research took place in the RW-6. The Maspati kampung was occupied by 350 families and 1,350 people altogether.

The second research location is the Jambangan kampung, in the sub-district of Jambangan. The sub-district of Jambangan has an area of 0.08 km² with a population of 10,191 people. In terms of area and people, Jambangan is more spacious but has fewer people than Bubutan. In terms of economic activities, the sub-district of Jambangan is not as busy as Bubutan. However, economic activity is proliferating in this area, supported by several university campuses in the vicinity, such as the Universitas Negeri Surabaya and the University of Merdeka. There are at least twelve minimarkets and hundreds of restaurants and stalls in this area.

The size of family members in Jambangan kampung is four people on average. There are seven families in the Pre-KS category and 248 families in the KS-I category. The number of families in the KS-II group is 1,111 families, KS-III is 272 families, and KS-III+ is 198 families. In contrast to Bubutan, the proportion of the population in the lower-income group to the more prosperous group appears to be smaller.

Administratively, Jambangan District consists of seven RWs and twenty-nine RTs. This study took the RW-3 as the research location. The RW-3 borders the Surabaya River in the west and the Jambangan Raya street in the east.

3.1.2. Tenure Situation

While the dominant approach in urban studies divides urban settlements into simple formal and informal categories, the two kampungs studied show a complex situation.

Maspati kampung occupied a hidden location behind a row of shops and economic activities along Bubutan street. They lived in densely populated settlements in narrow alleys. More than one-third of the population lived on their own land. There were ninety-one families (37%) occupying their own land. Meanwhile, seventy-one households (29%) occupied land owned by their families, and seventy households (29%) live in houses with rental status. There were thirteen households (5%) who did not answer the survey.

There are 166 families, or 68% of the population, that have been living in Maspati for more than twenty years. Only seventy-nine families (32%) claimed to have lived in Maspati for less than twenty years. Among them, 171 families (70%) of the population hold their land with the state (national) tenure. In comparison, seventy-four families (30%) controlled their land with the customary tenure or adat (Petok). In this study, what is meant by the state (national) tenure is a land tenure type based on the Indonesian Basic Agrarian Law (BAL) 1960 [16].

The BAL is the main reference for understanding land tenure in Indonesia. Therefore, any adoption of concepts related to land tenure and its security, including formal-informal and legal-illegal, must refer to this Law. This Law provides rules on how Indonesia coordinates the plurality of customary tenures into one national tenure without creating a rigid formal-informal dichotomy.

The BAL mandates the government to register and transform the status of land with a previously tenure system owned by individuals or groups into the national tenure system. In the national tenure system, there are some rights to land that the state can grant, namely Hak Milik (HM) or right of ownership, Hak Guna Bangunan (HGB) or right to build, Hak Guna Usaha (HGU) or right to cultivate, Hak Pakai or right to use, Hak Pengelolaan or right to manage, and Hak Sewa or lease right. However, until 2021, the land registration program has not been completed.

In Maspati, the residents did not consider the proof of ownership with the national tenure system (HM, HGB) different from the proof of ownership from adat (Petok). Five interviewed residents had a similar opinion that the two types of evidence (national and customary) are considered similar evidence for ownership. They also argued that customary tenure evidence is also strong evidence of ownership.
This may be another reason why the government's land registration program to transform the customary tenure into national tenure has not received a good response from the Maspati residents.

In 2016, the city government made a supporting program for land registration, namely the Self-Help Mass Certificate (SMS). The land registration program is an administration activity and a part of the government function. In this program, the city government facilitated its citizens via the subdistrict office within their residence to register their land to the National Land Agency. The city provided a discount on the BPHTB costs, which was considered a barrier to the citizens in registering their land. The subdistrict office would assist a minimum of ten proposers.

The sub-district secretary stated that the SMS program was unsuccessful in Bubutan due to a lack of interest from the residents. While the head of the RW in Maspati argued that the residents knew about the program, but residents did not give a good response because of the perception of the costs and procedures that were considered expensive and time-consuming. According to him, registering land and obtaining land certification were not considered a priority for the current situation of the residents since the residents thought that customary evidence was already a strong proof of ownership.

In addition to customary tenure, there are some residents who live in Maspati with lease status. They are migrants who work in the trading centre around Bubutan. Maspati’s location in the city centre makes it easy for its residents to access the city area. Many places of trade and business are especially concentrated in the city centre. Low house rent is also the reason for low-income migrants to choose Maspati or other kampungs in the city centre over other types of housing.

The second research location was RW-3, Kampung Jambangan, which borders the river to the west. According to the government regulation number 38 of 2011, 3 to 30 meters (depending on the type of river) of land along the river is state land whose management is carried out by authorised institutions. The land should be free from housing or other building.

However, the local RT chief explained that there were two types of land tenure in his kampung. First, residents who occupy their own land, obtained by buying from the previous occupants. They live outside the riverbank. For this first category, there are those who control their land with national tenure (SHM, HGB). Some still control the land with customary tenure (Petok). The second is residents who occupy state-owned land obtained with or without permission from the competent authority. This group built dwellings on the riverbank. Unfortunately, given that there are no markers, it is difficult to identify clear boundaries between houses that occupied state-owned land and houses that occupied private individual-owned land.

In Jambangan kampung, for some reason, this research was not able to obtain proof of ownership from the residents in Jambangan one by one. However, this research involved the RT chief as a key informant who were aware of the occupancy status of the residents. This is due to the function of RW and RT that annually help the Kelurahan delivering the Surat Pemberitahuan Pajak Terutang Pajak Bumi Bangunan (SPPT PBB) or the land and building tax invoices to land dwellers. Through this position, the RT can identify taxpayers and squatter in their kampung since in each tax invoice, the land area and building as well as the name of the tax subject are listed.

The land and building tax are imposed on land dwellers with either the state (national) tenure or customary tenure. Unfortunately, the RW and RT cannot distinguish whether the land status is in customary tenure or has been registered into national tenure. This is because the land tenure registration is managed by the National Land Agency (BPN), while the city government manages the land and building tax.

According to the RT chief, most of Jambangan residents occupied land with ownership status. However, the results of further observation of the land maps from the BPN website (https://bhumi.atrbpn.go.id/ accessed on August 12, 2021) suggest that the majority of the land in that location has not been registered in the national tenure system. It means that most occupants in Jambangan still control the land with customary tenure (Petok).

A group of people built a dwelling on the riverbank in Jambangan. However, observations during a fieldwork in 2019 revealed that the dwelling’s condition was not like the pictures of slums commonly found on the internet. These dwellings were neatly arranged, clean, and facing the river. There were
three-meter-wide paving road along the riverbank that separated the river from the houses. On the roadside along the river, various ornamental plants were also planted.

The head of the RT said that this condition resulted from the collective work of the kampung residents with the ‘Gerakan Balik Kanan’ project. This project is an activity to change the direction to which the houses along the riverbank face, i.e., from facing away the river to facing the river. The motivation of this project is to shift the function of the riverbank dweller as “river guards” rather than accusing them of being polluters.

In terms of tenure, during the interview session, a resident living on the riverbank said he had lived there for more than twenty years. He said residents on the riverbanks occupied the land with verbal permission from the authorities. According to him, the authorities allowed them to stay by the river under certain conditions. Among them, the residents must be responsible and not make the area a slum.

Finally, in Jambangan and Maspati, multi-storey permanent residential buildings can stand side-by-side with small, non-permanent buildings. Most of the buildings in both kampungs were made of permanent materials. In Maspati, there were 181 households (74%) occupying houses with the category of a permanent building. The other sixty-four households (26%) occupied semi-permanent houses. A permanent house is a house built with strong and sturdy materials, both for the foundation of the house, pillars, walls, and roof truss structure. The materials were characterised by the use of concrete, iron, or other strong and durable materials. The semi-permanent house is a house built with materials that are not completely strong and durable i.e., semi-permanent houses do not entirely use concrete walls. Some worked with less-strong materials, such as wood or other materials that are of low quality and not durable.

Administratively, the two kampungs are located in the city government’s jurisdiction and its services. They have RT and RW, which can function as the extensions of the city government. RT and RW have a strategic role in collecting and recording data regarding population to support the city government. They also play an important role in the successful implementation of government programs in the community.

3.2. Discussion

Kampungs exist in many cities in Southeast Asian countries. Originally a Malay word, kampung can be seen in two ways: spatial or social formation [17]. As a form of space, kampung refers to settlements both in rural and urban areas. As a social formation, kampung refers to a community with kinship ties, solidarity with others, egalitarianism, and citizens helping each other. At the same time, this term is also used as a pejorative to refer to people considered uncivilised, rude, and incompatible with urban culture.

Urban kampungs are an amiable place for the urban poor. As shown by the Keluarga Sejahtera data previously, more than half of the population of the two kampungs studied were low-income people. However, we cannot say that all residents in urban kampungs are poor. People with good incomes also live in the two kampungs. The reasons people live in kampungs rather than in houses built by the government or developers are often complex. In addition to economic reasons, social factors often play a part.

Most academic discourses and urban policies categorise urban kampungs as informal settlements [1–3,18]. However, some researchers reject the generalisation of urban kampung into one simple category of informal settlement. They point out the complex situation of urban kampung into several typologies [12,13]. Unfortunately, these typologies have not paid enough attention to the main characteristic of informal settlements, tenure.

The finding shows that Maspati and Jambangan have complex land tenure. It reinforces the previous research on urban kampungs in other cities in Indonesia. Most studies show that there are different types of ownership in one kampung. It also often overlaps [19–24]. People can live in kampungs with the state (national) tenure (SHM, SHGB), customary tenure (Petok, Girik), former colonial tenure (Eigendom), religious tenure (Waqf), and rent on other people’s property. By this finding, categorising kampung into a single category as informal is misleading, and the argument that kampung do not have tenure security is incorrect.
Some unregistered land within kampung is not typical of Jambangan and Maspati kampung. The situation represents the tenure situation in other kampungs in Surabaya and other cities in Indonesia. In Surabaya, there were 224,107 unregistered land parcels in 2016.

On the other hand, several residents in Jambangan live on the riverbank with verbal permission from the relevant authorities. Of course, this type of tenure is not secure. However, the composition of this group is much smaller than the majority of the population who occupy their own land. This situation cannot justify the labelling of Jambangan kampung as an informal settlement with insecure tenure.

In addition to tenure, other facts that support the argument that kampung cannot be simply categorised into informal settlements are infrastructure and access to the city government services. It was clear that Maspati and Jambangan have good access to clean water, electricity, and road. Administratively, they are also integrated into the city administration. In fact, these two kampungs have won the green and clean competitions among neighbourhoods at the city level. This competition assesses the cleanliness of a neighbourhood and the cohesiveness of the residents in maintaining their neighbourhood. This finding strengthens the previous research that argues many kampungs can be decent places [25–27].

Indeed, not all urban kampungs are decent. However, not all urban kampungs are bad. Therefore, generalising urban kampungs into one account with a particular position is misleading. Describing urban kampung by generalising a positive picture will conceal the weaknesses of other kampungs that require government intervention. At the same time, the generalisation of the negative image of the kampung ignores the fact that many kampungs are decent settlements and have an important role in the process of urban development in Indonesia.

Furthermore, framing the urban kampung with a demeaning image can have negative consequences for inclusive urban development. Instead of making improvements to a particular urban kampung that is bad, a degrading image can legitimate the elimination of urban kampung in the city's future. We need a more contextual concept that provides an inclusive picture for a comprehensive urban kampung feature. This study accounts for fair representation in academic and policy discourse.

4. Conclusion

The data and its analysis show that urban kampungs are too complex to be represented into the simple category of informal settlement. In terms of tenure, one urban kampung can be inhabited by residents with various tenures beyond the formal-informal dichotomy, and all of them are recognised by the state and society. Maspati and Jambangan kampung also have good infrastructures and are administratively integrated into the city government. Therefore, this study rejects the perspectives that simplify urban kampungs as informal settlements and having insufficient tenure security. A generalisation and simplification of urban kampungs into an informal category are imprecise and can potentially diminish the ability to understand kampungs comprehensively.

Furthermore, a simplification and uncritical thought towards the conceptualisation of kampung poses the risk of potentially misleading urban scholars and practitioners in addressing the existence and the future of kampungs in the city development process. This paper strongly suggests a more contextual conceptualisation of urban kampungs. It should be an inclusive and comprehensive concept that offers exploration and liberation potential of urban kampungs.

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References
[1] Cities-alliance 2002 Cities Without Slums (Washington, DC)
[2] Davis M 2004 Planet of Slums New Left Rev. 26 506–506
[3] Gottdiener M, Budd L 2005 Key concepts in urban studies (London: SAGE Publications Ltd)
[4] Rakowski C A 1994 Convergence and divergence in the informal sector debate: A focus on Latin
[5] Obeng-Odoom F 2011 The informal sector in Ghana under siege J. Dev. Soc. 27 355–92
[6] Hart K 1973 Opportunities and Urban Employment in Ghana J. Mod. Afr. Stud. 11 61–89
[7] ILO 1972 Employment, Incomes and Equality: a strategy for increasing productive employment in Kenya (Geneva)
[8] UN-HABITAT 2015 Informal settlements (New York)
[9] Obeng-Odoom F, Stilwell F 2013 Security of tenure in international development discourse Int. Dev. Plan. Rev. 35 315–33
[10] Soto H de 2001 The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else (London: Transworld Publishers)
[11] Marx B, Stoker T, Suri T 2013 The economics of slums in the developing world J. Econ. Perspect. 27 187–210
[12] Ford L R 1993 A Model of Indonesian City Structure Am. Geogr. Soc. 83 374–96
[13] Funo S, Yamamoto N and Silas J 2002 Typology of Kampung Houses and Their Transformation Process J. Asian Archit. Build. Eng. 1 193–200
[14] Gilbert A 2009 Extreme Thinking About Slums and Slum Dwellers: A Critique SAIS Rev. Int. Aff. XXIX 35–48
[15] UN-HABITAT 2008 Secure Land Rights for All (Nairobi)
[16] Indonesia T P of the R of 1960 Basic Agrarian Law 5/1960 (Indonesia)
[17] Newberry J 2008 Double spaced: Abstract labour in urban kampung Anthropologica 50 241–53
[18] Yap K S 2016 The enabling strategy and its discontent: Low-income housing policies and practices in Asia Habitat Int. 54 166–72
[19] Obeng-Odoom F 2018 Valuing unregistered urban land in Indonesia Evol. Institutional Econ. Rev. 15 315–40
[20] Leitner H, Sheppard E 2018 From Kampungs to Condos? Contested accumulations through displacement in Jakarta Environ. Plan. A 50 437–56
[21] Jones P 2017 Formalising the informal: Understanding the position of informal settlements and slums in sustainable urbanisation policies and strategies in Bandung, Indonesia Sustain. 9
[22] Zhu J, Simarmata H A 2015 Formal land rights versus informal land rights: Governance for sustainable urbanisation in the Jakarta metropolitan region, Indonesia Land use policy
[23] Winayanti L, Lang H C 2004 Provision of urban services in an informal settlement: A case study of Kampung Penas Tanggul, Jakarta Habitat Int. 28 41–65
[24] Reerink G, van Gelder J L 2010 Land titling, perceived tenure security, and housing consolidation in the kampongs of Bandung, Indonesia Habitat Int. 34 78–85
[25] Das A, King R 2019 Surabaya: The Legacy of Participatory Upgrading of Informal Settlements (World Resources Report Case Study)
[26] Setijanti P, Santosa H, Krisdiato J, Salatoen M, Firmaningtyas S, Ernawati F, Bahari F K 2016 Kampung Development for a Resilient City Proceedings of the CIB World Building Congress vol I, ed K Kähkönen and M Keinänen (Tampere: Tampere University of Technology) p 918
[27] Silas J, Emwati R 2013 Liveability of Settlements by People in the Kampung of Surabaya Proceedings of the 19th CIB World Building Congress, Brisbane 2013: Construction and Society (Queensland University of Technology) p 7