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On track. Spontaneous privatization of public urban land in Bandung, Indonesia[1]

Ari Nurman and Christian Lund

Abstract: **The history of land control in Indonesia is overwhelmingly one of colonial conquest, government enclosure and expropriation of traditional property rights. However, beneath these great transformations, counter-currents also flow. Encroachment on state land and its gradual privatization by ordinary people sometimes gnaw at government property. Through a series of small, sometimes innocuous actions, people manage to undo the previous ownership regime. This article shows how settlers over a period of some 30 years – through a strategic mixture of civic disobedience and civic compliance – managed to appropriate, formalize and effectively privatize land belonging to the state-owned railway company in the city of Bandung. The authors argue that disobedient occupation and subsequent obedient payment of taxes, documentation of residence and 'normalization' of the area have reduced the company's ownership to thin formality, whereas new residents hold all the substantial elements of property rights to the land.**

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Large populations in post-colonial societies live at the margins with precarious rights to property and citizenship. Often, governments have declared land as state property and thus, at the stroke of a pen backed by force, turned residents into squatters. They are rendered legally and politically invisible. Their rights are expunged and their claims rendered incompatible with the government's own property rights. Not to be seen as a rights-bearing subject inevitably delegitimizes any claims from that person (Arendt, 1979, p 296; Somers, 2008, p 21). Political visibility cuts both ways, however. People are often suspicious of public authority with good reason, and prefer to keep open the option of obscurity. Choices and strategies of visibility and obscurity depend on the context, on authority's ambitions and resources, and on people's available options. While being careful to

avoid certain governing agencies, people simultaneously exert great effort, im-agination and flexibility to be seen by others. People improvise to present themselves and their claims in ways that are visible to the appropriate institution of authority, as well as to a public that may offer more general support.

The competition over space seems especially tense in urban areas where the effects of marginalization are dire (Davis, 2006). Urban areas have been objects of attention from very different standpoints. De Soto's influential book focuses exclusively on the absence of recognition of private property as the single deci-sive feature that keeps people marginal (de Soto, 2000). We agree that property rights are important and that the exclusivity of ownership in the form of govern-ment-recognized deeds is often something to which people aspire. However, a fixation on government-recognized private property blinds us to other relevant forms of acquisition of space, recognition of claims, and ways of securing access to land, livelihood and residence. Santos's work on Brazil in the 1970s (Santos, 1977) demonstrates that the marginalized – the oppressed – constructed and re-produced their own legalities in parallel with government regulation, and Lefebvre's concept of 'right to the city' (1996) suggests that, while we talk about concrete rights, they may be rights to something less concrete than a piece of property.[2] We argue that claims to space are made up of a web of specific rela-tions of recognition and that, sometimes, formal private property need not be part of that web for rights to be effective and land tenure secure and certain. The present article examines these different claims and relations of recognition in detail. Specifically, we analyse struggles over urban space in Bandung, Indone-sia, a city of some two-and-a-half million inhabitants. A significant amount of land in central Bandung has been public land since colonial times. Thus, the municipal government claims to have the 'authority to exercise a direct right over 51 per cent of the city's land' (Reerink, 2011, p 95). Large swathes of these public lands are now home to informal settlements, however, and land is effec-tively privatized while its formal legal status is quite unclear. The unclear formal status of the areas has not prevented their inhabitants from actively claiming effective rights to them. We focus on a particular piece of land, namely that along a now disused railway line. This space stretches through the central parts of the city and, as historical infrastructure, represents government ambition to exert spatial control. Yet the area has become a settlement for ordinary people through an intricate combination of claims. When we select this urban setting, it is not in order to claim that spontaneous privatization is generalized in Indonesia, in its urban areas or even merely in Bandung. We do seek to demonstrate, however, that this *can* take place – and how this comes about – where one would suppose government control over space to be rather strong. If privatization dynamics nonetheless unfold under the nose of government, these are dynamics worth study-ing in many places (Lund, 2014). We develop our analytical argument in the following section. Thereafter, we provide a brief outline of the history of infor-mal, non-planned urban settlements in Java as context for a grounded case study on the spontaneous privatization of disused railway tracks in Bandung (see Fig-ure 1 for a map of Bandung).

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[2]   See also Holston (2008); and Fernandez and Varley (1998).
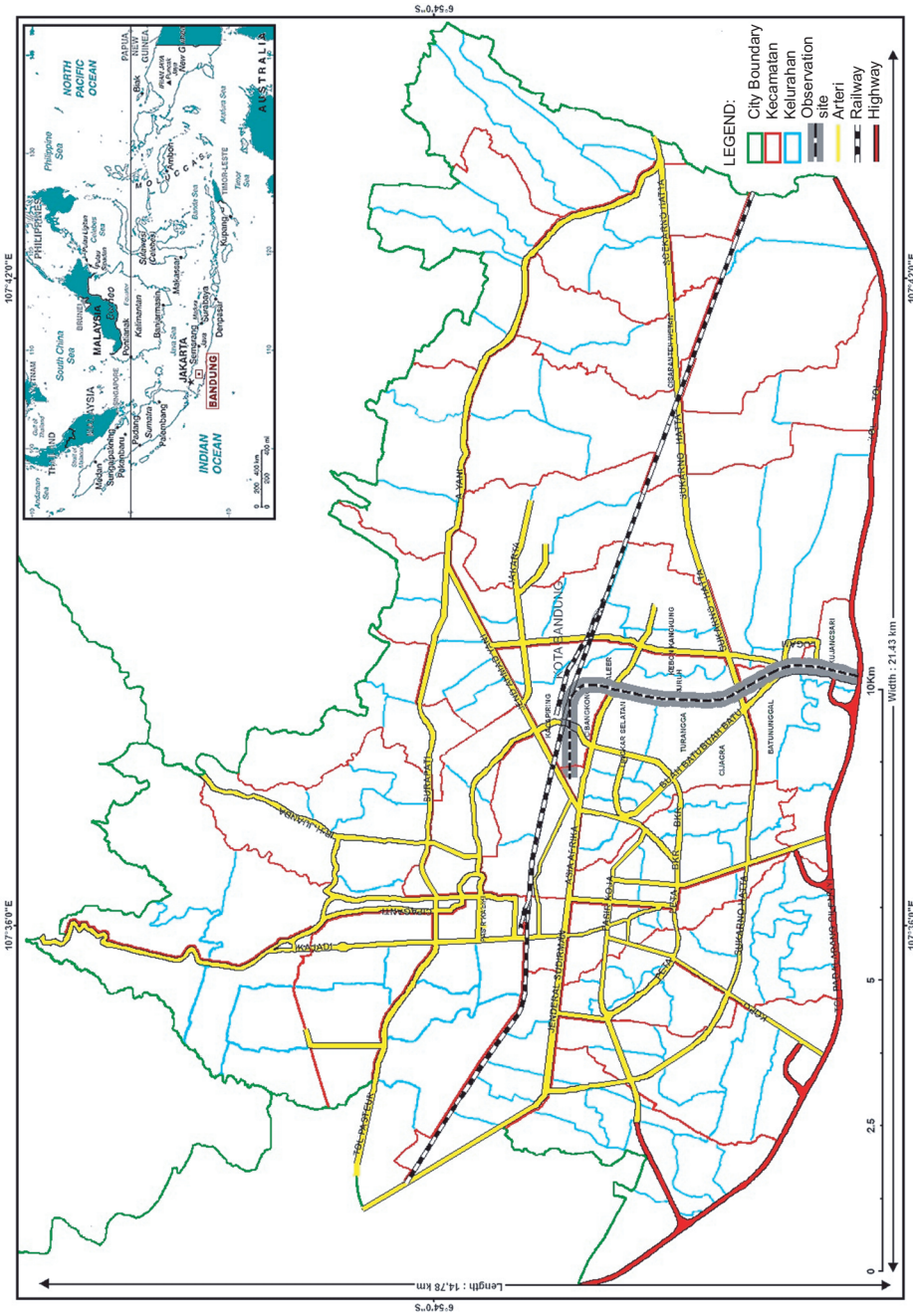
Figure 1. Bandung, showing railway track and observation site.
Source: Based on Bandung Municipality Planning Agency Map.

Conceptual outline – what is at stake?

The privatization of public land generally means the transfer of property rights in land hitherto held by public institutions or agencies to private individuals or companies. In deliberate privatization policies, the transfer of property can be done in one move, so to speak. It may therefore look as if we are witnessing the transfer of a single, consistent and absolute right. Indeed, it may even look as if the property is the thing – the land – itself (see Macpherson, 1978, p 7). However, in the case of Bandung (and many other places), such transfers take place in informal, non-guided, incremental, incomplete and non-consensual, sometimes even contentious, ways. In such contexts, it becomes obvious that there are, in fact, many different claims, which are being 'expressed' at the same time through people's privatization of public lands. It is therefore necessary to break down the general claim into its constituent parts. It makes sense to see the rights to space as a 'bundle of rights' (Von Benda-Beckmann *et al*, 2006). Such bundles include rights of different consequence, such as rights to access, to be present, to reside over time, to construct, to extract benefit, to conduct business, as well as the authority to transact all of those rights. This list is not exhaustive, as different contexts display a vast array of specific qualifications, but it reflects the variability found in most contexts (Guillet, 1998; Hanna *et al*, 1995; Meinzen-Dick and Pradhan, 2001; Schlager and Ostrom, 1992; Sikor *et al*, forthcoming).

Rights are basically claims that are recognized by some form of authority or the surrounding community (Lund and Boone, 2013; Macpherson, 1978; Sikor and Lund, 2009). And as we break down the general claim to space into its constituent parts, we see that these claims are not all addressing the same kind of authority for recognition. Many claims are recognized as rights by statutory institutions, but in a complex institutional environment – such as a city – there are many competing government institutions with which people can lodge claims. Sometimes, claims fall outside of the institution's formal mandate or jurisdiction. But appeals to institutions to recognize claims even beyond their formal mandate can actually work to extend their *effective* jurisdiction. In Indonesia, the state's ultimate authority in land questions is widely recognized. Yet which of the many government institutions actually represent this state authority in a specific case is more open to political wrangling. People's claims invest the institution with an *expectation* of public authority, and the extended jurisdiction may become effective, if the claims endure as effective rights.[3]

In contexts of multiple claimants to space, and multiple possible authorities to recognize them, it is difficult to talk of rights as unequivocal. Rather, we are looking at competing attempts to justify the rightfulness of claims (Rose, 1994). And rather than looking for one overarching recognition of a single claim as property, we face a dense, dynamic web of relations of recognition between claimants and institutions (Das, 2011; Holston, 2008, 2009; Jianping and Jian, 2009; Körling, 2011; Lund and Hahonou, 2013; Nielsen, 2011; O'Brien and Li, 2006; Reerink, 2011; Ubink, 2009; Winayanti, 2011). Some of these relations align and reinforce one another. Others compete, challenge and suspend one another. In such situations,

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[3]   Institutions that are not statutory or part of government also operate in ways through which they define and enforce claims as rights (Lund, 2011). By appealing to such institutions, people may actually invest them with the quality of public authority as well.

the practical question is not so much whether or not rights to property exist, but rather with what security and certainty land is held. We must be open to the possibility that there are no single dominant rights, but rather a mix of more or less compatible claims backed more or less effectively by different institutions.

Concretely, different documents, artefacts and physical edifices represent the relations of mutual recognition. In our case, land tax receipts for residential structures, and quittances for payment of business tax on workshops and restaurants on the tracks suggest some form of legitimate presence. Visible census stickers on windows show residence. Signboards from the railway company and others signal ownership, and physical structures such as voluntary community police sentry boxes on the land demonstrate authority, along with other buildings such as houses, mosques, schools and local communal infrastructure established by government agencies. Which of these are most persuasive as rightful claims to the space is, indeed, an empirical question.

This theoretical perspective has methodological consequences. In the following, we inspect the broad range of claims to space and the connections of recognition they constitute along the now abandoned rail tracks running through Bandung municipality. Claims and rights often develop by contingent increment. We therefore apply a historical perspective from the first claims to land along the then-active railway line, to the present. The railway line cuts through nine *kelurahan* (sub-submunicipalities) in the municipality of Bandung over approximately five kilometres.[4] First, however, we need to situate this space in the context of planned and spontaneous urban development in Java.

History of informal, non-planned settlements in urban Java

Urban landscapes develop in a mix of government plans and more spontaneous activities driven by individuals and groups. At some moments, plans and legislation are 'ahead' of demography and economy; at other moments, demography and economy drive development. Hence, urban spaces can be defined in administrative and political terms as municipalities with specific legal and developmental attributes, or in terms of demographic density and economic agglomeration. The modernization of Indonesian cities has been a constant struggle between, on the one hand, a government planner's ambition for order and progress through standardization, structure and adequate infrastructure and, on the other, a more unwieldy, opportunistic, pragmatic provision of facilities (Colombijn and Coté, 2015). Bandung represents both developments. In this article, we focus on urban spaces in Bandung, Indonesia, where spontaneous land acquisitions, settlements and use challenge the planned use of land by government. Hence, we focus on urban spaces that are supposedly fully under the control of government and its planners, but which are effectively only partially controlled by it. Such areas are not new, but have history.

During the early stage of colonization, the Portuguese and the Dutch built their

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[4]   Fieldwork and data collection were conducted between August and December 2013 by Ari Nurman. Christian Lund visited the field and we jointly conducted interviews in November 2013. Some 50 interviews were conducted. We interviewed community leaders, elders, shop owners, residents (men and women alike), railway inspectors, retired railway workers, development projects, and the imams of the mosques and schoolteachers in the schools on the tracks in all sub-subdistricts.

trade and military bases in towns within the coastal area. In the late nineteenth century, Bandung grew as a commercial town in the centre of plantations in the Priangan area, and earned its fashionable sobriquet, *Parijs van Java*. At one point, the Dutch colonial government even considered making Bandung the capital of the Dutch Indies (Reerink, 2011, p 26). As the city grew, Bandung absorbed surrounding villages, and they developed into urban neighbourhoods, or kampungs. As Reerink (2011, p 27) points out, these 'kampungs were allowed a high degree of autonomy, which mean[t] that the population could apply its own customary, or *adat*, law, administration, and administration of justice, also in relation to land'.[5] Consequently, in terms of demographic density, professional occupation and general economy, Bandung and other cities in the Dutch Indies developed as urban areas. Bandung officially became a town (*Gemeente*) in 1906. Administratively and politically, however, much of the urban area remained 'rural'. While geographically engulfed by the expanding cities, administratively and legally, many kampungs remained rural settlements (Reerink, 2011, p 29). Some municipalities of large cities such as Semarang, Surabaya and Medan began to undertake so-called 'kampung improvement' before the kampungs had been administratively integrated into the city, thus infringing on village autonomy. In Bandung, the last rural kampungs were administratively integrated into the city in 1964 (Colombijn, 2013, p 186). The process of urbanization was far from smooth.

During the Japanese occupation in the Second World War, many Dutch and other Western owners abandoned their properties in urban areas. At the same time, agricultural production in the rural areas was redirected to support the Japanese war effort. Famine hit rural areas in many parts of Java. As a result, migration to urban areas increased, and the Japanese military encouraged local people in urban areas to cultivate any available vacant land without seeking the authority of a tenured owner (Colombijn, 2013, p 168; Tunas and Peresthu, 2010). This was the beginning of wide-scale squatting on urban land. In 1943, the Japanese introduced a system of neighbourhood unit association, later refined as *Rukun Tetangga*/RT (smaller neighbourhood association) and *Rukun Warga*/RW (greater neighbourhood association).[6] It functioned to control the population and, at the same time, to support mobilization for war purposes (Jellinek, 1991, p 106; Reerink, 2011, p 33).

After the war, steady flows pulsed from and to urban areas, while policies *vis-à-vis* informal settlements in urban areas went through cycles of 'tolerance and repression' (Colombijn, 2012, p 233; 2013, pp 207–227). During the Indonesian revolution and the fight for independence, Sukarno and the Republican leadership encouraged squatting on public and Dutch-owned land in defiance of colonial rule (Abeyasekere, 1989; Colombijn, 2012, p 232). The Dutch military chased suspected freedom fighters in the urban kampungs. The colonial government even issued a law that made illegal occupation of urban land a criminal act (Reerink, 2011, p 33).[7] After independence in 1949, conflicts between Islamic separatists,

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5   See also Colombijn (2012), pp 232–233; Colombijn (2013), p 186; and Jellinek (1991), p 105.
6   When the Japanese left, the *tonarigumi* system survived and was adopted and adapted by the Indonesian government to become the present neighbourhood association structure, the Rukun Tetangga (RT) and Rukun Warga (RW). The latest local, legal regulation for these institutions in Bandung is the Peraturan Daerah Kota Bandung No 2 tahun 2013. A Rukun Tetangga consists of 30–75 households (Article 6, number (1)), whereas an RW consists of 5–15 Rukun Tetangga (Article 7, number (1)).
7   Ordonantie 'Onrechtmatige occupatie van gronden' (Staatsblad 1948-110).

communists and nationalists created significant insecurity in the countryside, and as a result large numbers of refugees washed into urban centres (Cybriwsky and Ford, 2001; Reerink, 2011). They often settled on public lands such as cemeteries, river and canal banks, and, as in our case, along railway tracks. In the chaotic political and economic situation, land occupations organized by the Communist Party were widespread. The Communist Party supported land occupations – rural and urban alike – as a challenge to government. Yet, other political groups and various professional associations, such as the Association of National Entrepreneurs and the Association of Small Entrepreneurs and Traders in Jakarta, also supported the informal settlements and argued against evictions (Colombijn, 2013, p 218). In 1958, the government nationalized properties and assets of Dutch individuals and companies in Indonesia.[8] Many vacant lands thus became available in both urban and rural areas. The first 15 years of the post-independence period were characterized by significant violence and unrest. When Suharto came to power, replacing President Sukarno in 1965, the Communist Party was banned, and alleged communists and sympathizers were persecuted as government began to exercise very tight control over the population. At that time, military and civilian officials, as well as private individuals with paid gangs of thugs, seized the opportunity to evict people from informal settlements for their personal benefit. Land, property and spatial control were central features, Colombijn suggests (2012; 2013, p 169), in the struggle between communist organizations on the one hand, and landowners and the military on the other. After 1966, conflicts over space frequently ended with forced evictions 'for public benefit'. Yet this did not stop the irregular occupation of vacant urban lands (Davidson, 2015; Tunas and Peresthu, 2010; Winayanti, 2011).[9]

During the New Order (1966–98), government considered land to be crucial in attracting foreign investment, and it issued the first of a series of decrees on land acquisition to secure 'land for development'. However, as Winayanti (2011, p 60) points out,

> 'while new regulations were being produced to support private investment … there was no clear town planning law to guide urban development. … Town planning was being steered de facto by ministerial decrees and regulations produced by the Ministry of Home Affairs and the Ministry of Public Works. Subsequently, town planning became a source of rivalry between the two ministries.'

During the New Order, small-scale urban landowners were in a weak position *vis-à-vis* government, and tenure security for people considered to be squatters by

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[8]   By Law of the Republic of Indonesia Number 1, 1958 on Liquidation of Private Lands [Undang Undang Republik Indonesia Nomor 1 Tahun 1958 Tentang Penghapusan Tanah Tanah Partikelir] and Law of the Republic of Indonesia Number 89, 1958 on Nationalization of Dutch-Owned Companies [Undang-Undang Republik Indonesia Nomor 86 Tahun 1958 Tentang Nasionalisasi Perusahaan-Perusahaan Milik Belanda]. According to Reerink (2011), the nationalization resulted in an exodus of foreign workers and business owners, many of whom were Dutch. Some of them managed to sell up before they left, while others simply abandoned their properties.

[9]   In the 1980s, the government and the World Bank launched housing projects – so-called Kampung Improvement Projects – for the low-income population (Moochtar, 1980). The projects aimed to provide better infrastructure for kampungs, and to legalize others through certification of tenure (Peters, 2010, p 572). Yet the gap between demand for urban housing and its supply remained, and urban kampungs continued to grow (Benjamin and Arifin, 1985; Sastrosasmita and Amin, 1990; Tunas and Peresthu, 2010).

government was especially precarious. Importantly, the legislation did not allow for the acquisition of rights through uninterrupted adverse possession – in other words, no matter how long people might have been settled on the land, the law would not see that as a way to acquire rights to it (Fitzpatrick, 1997, p 197).

Democracy and decentralization followed the New Order from 1998. Generally, this had two significant consequences. First, people – even informal settlers – now constituted an electorate, which politicians could not afford to neglect entirely. Second, land administration was initially decentralized, then re-centralized, and land authority has been reworked four times in 10 years. No doubt this brought about some confusion about different competencies at different levels of government.

The rights to urban land upon which communities have settled have, therefore, remained opaque, to say the least. Consequently, security and certainty of tenure are less a question of right and wrong, and more one of actively building a contextually persuasive argument and of establishing as many relations of effective recognition by significant institutions as possible. The interaction between government agencies and their (often incoherent) policies, and local strategies to secure valuable rights to urban space, are best seen through a detailed case study.

History of the railway company land in Bandung

Following the tracks of the disused railway line between Bandung and Ciwidey today tells a story of gradual appropriation of space. Here and there, the tracks are visible, but then they 'disappear' under a house, a car workshop, a mosque or a community police station, only to 'reappear' some metres behind the building, now paved as a street, encrusted in a badminton court, or a school yard, 'disappearing' again under a restaurant or a shop. The track is there. Yet the space looks like most densely populated neighbourhoods of the city.

In this section, we present a brief history of the railway line that connects Bandung and Ciwidey, and of the changes in the management of the train company, describing how these have affected land use along the decommissioned railway line. We also show the gradual shift in control of the land from the railway company to residents, and how people have tried to make good their claims to the land.

The railway line

The history of railways on the Bandung plateau is related to colonialism. The Dutch colonial government built the Bandung–Ciwidey railway in the period 1918–1924.[10] From independence in 1945 until early 1970, the railway was the main connection between Bandung and Ciwidey, with three services daily. Road transport improved during the 1970s, however, and by 1980 the line was considered unprofitable and closed.[11]

The company also underwent a series of changes in its institutional set-up. Shortly after Indonesia declared its independence, the Train Youth Movement

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[10]   Stasiun Bandung, website: www.stasiunbandung.com (accessed 2 August 2013).
[11]   There is no valid information about the date. Some said it ceased to operate in 1980, while other respondents said that they had witnessed a locomotive in use on the railway until 1984.

(*Angkatan Muda Kereta Api*/AMKA) took over the railway system on 28 Sep-
tember 1945.[12] It declared the establishment of *Djawatan Kereta Api*/DKA, a
state train company.[13] With its central office located in Bandung, this train com-
pany provided services in Java and Madura. Meanwhile, *Staatspoor-weg* and
Verenigde Spoorweg Bedrijf (SS/VS) managed train operations in Sumatra, still
under Dutch occupation.

The recognition of sovereignty of the Republic of Indonesia in 1949 meant the
nationalization of the company. The DKA became *Djawatan Kereta Api-Repoeblik
Indonesia*/DKARI in 1950. This meant that the train service was directly under
the control of – and managed as part of the services overseen by – a government
ministry of transportation.[14] Since the 1960s, however, the train service has evolved,
first into a company owned by the Ministry of Transport and then to a so-called
'open company' – open to private investors but not eligible for government sub-
sidy. In 2007, the Government of Indonesia privatized the train company and
abolished its monopoly on train operation. In a nutshell, this meant that all opera-
tions had to be profitable or they would be discontinued.

In terms of ownership, the railway land was state land when the railway was
first constructed. State land – *tanah nagara* – implies that the state 'administers'
all land on behalf of the Indonesian people (Bedner, 2001). The authority over
state land was delegated by the National Land Agency as a right to manage (*hak
pengelolaan lahan*) granted to various state and state-owned companies. When
the railway company was privatized, the land under the actual tracks remained
public land and was now rented out to the company, whereas the company owned
the land upon which its buildings stood.[15] With the Decentralization Law of 1999,
the authority over delegated state land became rather unclear. In cases where such
lands were not effectively controlled by the company, but ceded to settlements of
ordinary people, the situation was hardly any clearer. Who held the rights to the
land was far from a settled fact; it became a fact to settle.

Occupying the land

The landscape alongside the railway between Bandung and Soreang was once
dominated by rice fields and scattered kampungs, but gradually during the late
1970s it was transformed into residential areas. The first housing complex, the
Buah Batu Baru, located west of the railway track, was built during this period.
The land east of the track was divided into housing plots and sold by the farmers
who had cultivated rice on the land. In fact, what was transacted was the use right,
the so-called *hak garapan*.[16] Several other housing complexes were built – some

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12   This moment is commemorated annually as the Indonesia Train Day (Hari Kereta Api Indonesia).
      Source: Sejarah Perkeretaapian/PT Kereta Api Indonesia, website: http://www.bumn.go.id/keretaapi/
      id/tentang-kami/tentang-perusahaan/ (accessed 4 November 2013).
13   At that time, the newly established republic had no state apparatus. Effective nationalization did
      not take place until 1949.
14   Source: http://www.kereta-api.co.id/ (accessed 21 October 2014).
15   Interviews with the local lawyers, the notary public, and the company's website (https://www.kereta-
      api.co.id/ under the header of *Tentang kami—>Sumber daya—>Asset Potensial*, accessed 15
      April 2015). Whether they pay rent has been impossible to establish.
16   The term *garapan* originally referred to farmland. In urban areas, *garapan* land has been devel-
      oped to become residential areas. *Hak garapan* means right to farm/reside, depending on the
      context (Leaf, 1993; Winayanti and Lang, 2004). When such a use right is transacted for money,
      it looks quite close to freehold. The difference may depend on the ease with which the govern-
      ment can acquire it for public purposes.

by the railway company for its workers. As the housing development project emerged alongside the railway, the first buildings were erected on the actual railway land by residents who settled very close to the then still-active tracks. Very soon, these emerging settlements were served by food stalls – so-called *warung* – in confirmation of the popular Javanese stereotype that, even in the smallest empty space, you can always fit in a *warung*.

People gradually began to settle on the unused railway land and cultivate it when the trains ceased to run in the 1980s. Generally, each new settler chose the size of his or her plot. Only in the village of Kujangsari did the village official divide and allocate the railway land. The settlers first put marks on the land by planting certain trees and cultivating the land with cassava, taro, vegetables, banana and other dry-land crops. Some people simply occupied the land, while others asked for permission from the nearest official, either the stationmaster or the railway controller.[17] It would appear that none of the controllers ever forbade or prevented the occupation. In the early phase of occupation, the residents paid informal rent to the stationmaster and the controller of the railway. The amount and the terms varied. Those near Cibangkong station, for example, paid rent to the train master, the amount being decided by him. Meanwhile, residents who occupied land further from train stations paid rent to track controllers. In some areas, the occupants said that no-one had obliged them to pay anything. Usually, however, the controllers would come to visit people living on the tracks once a year, during Ramadan, to extend *silaturahim*.[18] This was the occasion when the residents would offer small amounts of money to thank the controllers for letting them stay on the land.[19] At first, the stationmasters and controllers allowed the residents to cultivate the land as long as they did not erect any buildings. This 'prohibition' seems to have been effective only briefly, however. The size of the plots varied. Some had 20 square metres, but others took 200 square metres. One particular settler took about four hectares. It would have been obvious to stationmasters and controllers that the intention in all cases was to build and settle.

Consolidating the occupation

In the 1981–1984 period, the land alongside and on the disused railway came to be completely occupied. The rice fields all along the railway land were converted to housing, first as non-permanent houses made of bamboo. Verbal agreement and tacit understanding between the house owner and the stationmaster were common, but, more importantly, the surrounding community, neighbours and the head of the neighbourhood association also acknowledged the legitimacy of the building by assisting in its construction. Soon, some residents with small parcels of land expanded by buying their neighbours' land, and residents with larger plots of land started to divide, sell and rent out land to third parties. From around 1990,

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[17]   According to several informants, in the past all inhabitants along the track near to Cibangkong station paid 'rent' to the stationmaster. Similarly, other informants confirmed that the inhabitants along the track near Buahbatu-kordon station paid 'rent' to the stationmaster of that station. According to informants living along the track near Buah Batu Baru, Guntursari and Turangga, people there paid the railway controller. The local residents referred to their land rights as *hak garap*, or right to cultivate, but gradually extended the land use to residence.

[18]   An Indonesian Islamic term for renewing social relations.

[19]   The 'tradition' continued for years, even when the controllers no longer worked for the train company.

residents gradually started to improve their housing conditions. They invested in construction and transformed the non-permanent bamboo structures into semi-permanent houses. Bit by bit, people cemented their floors and built brick walls; some began to put in a second storey. According to our interviews, no-one ever prevented people from improving their houses. Hence, over a period of five years, the land of the disused railway tracks was completely taken over for other purposes. Following the occupation, the new residents began to consolidate their residence further by means of a range of different activities. The railway land was absorbed into ordinary neighbourhoods, and the settlements began to look like other kampungs in Bandung. Few features were visible to distinguish them from the more regularized structures, irrespective of the legal status of the land. The railway land had become part of their space. However, this did not happen overnight, but by many combined increments. Let us describe them.

Obtaining an address

One of the most obvious forms of recognition is an officially accepted address. Residents in a new, informal, residential area had addresses that did not exist prior to the settlement, but were produced as a part of it, and made the residence visible. There were several alternative ways of obtaining an address, depending on the local situation. When the occupied land was located in the extension of an alley or street that already had a name, people simply put a number on the front of the house. If their house was located far from an alley, they made their own alley, named it and put a number on the house. Very often, the number was not merely a continuation of the sequence from the neighbour's house, but rather the number of the house across the street with a letter added, such as 123B. Sometimes, if there were no close neighbours, people would form their own neighbourhood and often use a single number for the cluster of houses and add an 'S', for example 10S. The number would be taken from the closest house in the alley that connected their neighbourhood with the nearest road. The letter 'S' was for '*sementara*' (temporary). Later, residents would number the houses individually. The litmus test of this form of officialization was whether the postman could find the house with the address. New residents therefore systematically asked relatives in their hometowns to write to them, and during our interviews they proudly produced the letters that had found their way to their houses.

As a part of obtaining an address, people affiliated themselves with the nearest kampung or RT, to become recognized residents of the neighbourhood.[20] In some areas along the railway line, residents decided to form an RT on their own, and obtain recognition from the RW. Usually, this met with no significant problems. It meant being counted in the regular national census, as the census staff would liaise with the RT and RW structure. People received a small sticker from the government to put on the window, acknowledging their presence. Once official recognition from the RT was established, it was possible to apply for various formal letters. The head of the RT had the authority to issue a statement of residency (*surat pernyataan domisili*). This letter is a basis for the Kecamatan (Subdistrict Office) to issue an Indonesian ID card (*Kartu Tanda Penduduk/*

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[20] The administrative hierarchy is: municipality, subdistrict (*Kecematan*), sub-subdistrict (*Kelurahan*), greater neighbourhood (*Rukun Warga*, or RW) and smaller neighbourhood (*Rukun Tetangga*, or RT). The RW usually consists of more than five RTs.

KTP) on behalf of the municipality, which, in turn, is the basis for accessing various benefits, such as scholarships and subsidized health care. Such official letters were thus a key to accessing rights as citizens. In elections to the RT, residents on railway land would vote and be elected like any other citizen. Indeed, some of the RTs had found space for sentry boxes for the neighbourhood watch, as well as for small RT offices that used the railway tracks as a foundation.

Amenities

Most people who settled on the railway company's land had access to some degree of electricity, water and sanitation. However, such services were not all acquired 'by the book'. Most houses had electricity. In principle, the electricity company had to insist on a letter from the legal owner of the land allowing the inhabitants to have electricity installed. None of the inhabitants we interviewed had actually had to produce such a letter from the railway company, however. Instead, people had simply paid the staff of the power company to 'arrange everything' without such a permit. People then had a normal meter installed, in their name, which was read regularly like those of other customers. There were cases where the occupants, for different reasons, could not obtain a proper connection. They generally made an arrangement with the nearest neighbour to connect to their supply, and then shared the cost. Some tapped electricity directly from the nearest electricity wire without paying, but this seemed to be an exception, and usually a temporary measure.

The municipal water company considered the settlement to be informal. The residents, therefore, in principle had not been able to apply for a proper water connection. However, in reality, some of the inhabitants had water connections with meters. The boundary between what is considered a regular settlement and what is informal squatting, in the eyes of the water company, moved over the years as houses appeared to be more and more permanent, and people had received ID cards officializing their addresses in the 1990s. The owners of houses that were serviced like this sometimes extended pipes from their house to a neighbour's, and split the bill in various ways.

Generally, the neighbourhoods along the railway land managed to provide themselves with sanitation services. Most of the houses had indoor toilets or bathrooms. Sometimes, neighbours would have shared facilities. Most people's houses were connected via the wastewater pipe to nearby streams and drainage systems. Some houses were equipped with individual septic tanks. They were generally put in when the owners improved the house. Finally, some had begun to connect the wastewater pipe to the nearby municipal main wastewater pipe. This was found in parts of the settlement that had benefited from public infrastructure projects.

Spaces with unclear legal status cannot benefit from government projects to improve infrastructure – in principle, that is. However, with the fall of Suharto in 1998, the onset of the financial crisis in 1998, and the decentralization reform in 1999, opportunities for new practices opened up as the national government launched various safety-net programmes, job creation schemes and 'participatory' projects.[21] In 2012, a national programme for urban community empowerment

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[21]   Several projects backed by international finance organizations have been implemented in urban areas in Bandung. Some of them are Bandung Urban Development Project/BUDP I and II, *Program Pengembangan Kecamatan*/PPK [*Kecamatan* Improvement Programmes], which later became

(*Program Nasional Pemberdayaan Masyarakat-Mandiri Perkotaan*/PNPM-MP) began to operate in the neighbourhood along the disused railway. The project was based on community participation and required people to form a Community Self-Support Unit (*Badan Keswadayaan Masyarakat*/BKM). The activities generally started by recording the wishes of the community and public discussion to establish ways in which they could contribute to the construction and maintenance of infrastructure. The projects implemented by PNPM over the five kilometres we studied were sewerage systems, public sanitation (toilets, bathrooms, water taps) and alley pavements. The management of the PNPM project was very well aware of the unclear legal status of the land. However, there are few areas in Bandung and other cities where agencies such as PNPM can operate without encountering somewhat unclear legal provisions, and trying to stick rigidly to rules would virtually paralyse their activities. The management, therefore, had decided to venture forth. In the annual audit reports on the project, the auditors had indeed noted that PNPM was technically at fault, but decided that the activities could not be considered 'corruption' and were therefore pardonable.

'Property' tax and transactions

Different kinds of 'regular payments' have featured since the first occupation. In the early phase, the inhabitants paid former staff of the train company for allowing them to stay on the train land. This payment also ensured that the plot was not transferred to others. Although eviction from this land never happened, it was and remained a concern of the residents.

Over time, some of the residents had begun to pay tax to the Government of Indonesia. The residents on the railway land became registered taxpayers when Kelurahan staff came to their neighbourhood and measured their plots and the size of their buildings.[22] People were served a tax statement (*Surat Pemberitahuan Pajak Terutang Pajak Bumi dan Bangunan*/SPPT-PBB) stating the amount of property tax due. While the letter was not legal proof of ownership, many of the residents believed that this particular paper secured their tenure.[23] The train company seemed not to consider this a problem. According to the company managers, as people were squatting on state land, it was only appropriate that they should pay rent to the state. And rent payment would not make people owners according to law. The management seemed to forget that the company was no longer part of a government structure. In practice, moreover, the difference between the access enjoyed by residents and formal legal ownership was modest, as we will argue below.

Program Nasional Pemberdayaan Masyarakat/PNPM *Perkotaan* [National Programme for Community Empowerment – Urban] and *Program Nasional Pemberdayaan Masyarakat-Mandiri Perkotaan*/PNPM-MP [National Programme for Community Empowerment and Urban Self-Sufficiency].

22   None of the respondents informed us when precisely they became registered as property taxpayers. But if we refer to the law of property tax, law number 12/1985 [*Undang-undang* No. 12 Tahun 1985 *Tentang Pajak Bumi dan Bangunan*] – which abolished compulsory contribution in the local region [*Iuran Pendapatan Daerah*/IPEDA] and replaced it with the *Pajak Bumi dan Bangunan* – residents were, in all likelihood, registered as property taxpayers after 1986, when the law was fully implemented.

23   The tax dates back to the colonial era and was a land rent. People generally paid according to the amount they cultivated, and the generalized understanding was that the tax payment receipt – connecting the name of the person, a specific area and its taxable value – was proof of possession amounting to ownership. Indeed, these tax payment receipts were part of the essential documentation required in registering land transfers (see Kano, 2008, pp 311–344).

Over time, many of the houses have changed hands on the railway land. Through inheritance and sales, what are in effect property rights have been transacted. Generally, people explained that they knew full well that they did not own the land, and *land* was not what was actually sold. *Houses*, on the other hand, were what people sold and rented. This was a convenient distinction in everyday situations. However, as we argue below, the semantics and the effective rights are quite different. People usually documented property transactions themselves. Buyers received a *kwitansi* (quittance, or receipt), but the documentation by the tax authorities simply meant that the residents had changed.

Discussion – property and citizenship on the tracks

Before the occupation, the train company was the legal owner and later legal tenant of the land, without being challenged by any party. The train company had rights to use and develop the land along the tracks. However, the gradual settlement on the railway land had institutional implications.

While the initial occupation was not condoned by the railway company, neither was it actively opposed. In fact, the settlers managed to access the land by paying railway company personnel. Another way to maintain access to the land was by using the land in a proper way. The settlers, thus, were careful not to destroy railway property. They let the tracks and other train company assets remain on the land, and cultivated the land along the track at the same time. This strategy meant that settlers were both visible and invisible at the same time, while accessing the land. The settlers demonstrated civic compliance in their transgression, which allowed them to entrench and deepen their effective control over the space. An important element in this compliance was to establish an agreement or understanding with the company and its representatives.

The settlers would address the railway company for permission to use the land, but they knew that the company would not be able formally to allow them to use it. Furthermore, it was unthinkable for the settlers to address the company as such. When we discussed this in interviews, it was clear that people did not know how to contact the company in a formal way, or which company official to address. Instead, adjusting to the situation, the obvious path was to address the railway company personnel on location. The track controller and the nearest train stationmaster seemed the way to go. To the settlers, they represented the train company.

Why would the railway company personnel go far beyond their authority and give their consent to the occupation of the land? The most obvious explanation would seem to be that the train company staff received something in exchange from the settlers (for rent-seeking and infrastructure, see Davidson, 2015). For stationmasters and track controllers, such extra income would be quite welcome. However, our interviews would suggest that something else was also afoot. First of all, the payment of the officials was not untoward or underhand. On the contrary, it was open, public and ceremonial. In fact, among the ground-level personnel of the company, a set of practical norms seemed to develop. In situations with limited resources to conduct their formal tasks, ways of coping while still delivering some service or performing some functions tended to

emerge.[24] On the railway line in Bandung, the task of the stationmaster and the track controller changed as the traffic on the tracks ceased. The priorities changed, from ensuring the safety of the passing train to securing the company assets from pilfering. Without any explicit instructions from above, company personnel improvised agreements with settlers regarding use of the land.

In essence, what we see here is an exchange of recognition between settlers and train company staff. The former recognized the authority and capacity of the staff to allocate land, while the latter recognized the settlers' right to access the land and draw benefits from it. In fact, the settlers *invested* the company staff with this authority, and in turn, they *created* rights for the settlers to become recognized residents. This agreement, or social contract, was not static, however. Once investment in the authority of the train company staff had proved effective, the settlers continued to push to extend, deepen and consolidate their rights.

Another strategy employed by settlers was the construction of public infrastructure, such as mosques, neighbourhood security posts, schools, kindergartens, neighbourhood association offices and other functional buildings – even badminton courts. It is hard to say whether this was a deliberate strategy from the outset, but the presence of such public goods on railway company land signified a community presence on the land. And, at the same time, such public infrastructure also functioned as cover for and distraction from the settlers' efforts to improve the condition of their houses. Public infrastructure allowed them to control the land relatively unnoticed by the statutory authorities. But gradual and incremental construction allowed them to test the train company's awareness. Some of the infrastructure was even introduced by government agencies. Just as the settlers needed development of the physical environment of the neighbourhood, the PNPM project was in need of clients to justify its existence. The project staff turned a blind eye to the legal status of the settlement, and by doing so, actually helped to consolidate it. The visibility of the settlers as citizens made it possible to obtain indirect recognition from a government agency of their claim to residence.

A long period of settlement on the land, of social acceptance from the neighbouring community, and construction of residential houses equipped with public infrastructure, allowed the settlers to take the next step and register as property taxpayers (*Pajak Bumi Dan Bangunan*/land and building tax). People had their plots and buildings measured by *kelurahan* officers to determine the amount of municipal tax due.[25] Although property tax payment might not be legal proof of ownership, it testified to the residents' good intentions of becoming normal citizens.

While the settlers' rent payment to the railway company personnel entitled them only to cultivate land, it did in fact enable them to transfer the land to third parties by sale. The buyer could continue the practice of the earlier resident. Company

[24] This dilemma of 'street-level' or 'front-line' bureaucrats has been analysed by Bierschenk and Sardan (2014) and Lipsky (1969, 1971, 2010), among others. Due to inadequate resource support, threats and challenges to authority, and contradictory or ambiguous job expectations, the street-level bureaucrats develop so-called practical norms. They use their discretion and interpret and make decisions based on personal experience through simplifications, prioritizations, compromises, self-adjustment, etc.

[25] In this case to *Kantor Pelayanan Pajak Bandung Satu*. For similar strategies of formalization, legalization or certification of residence, see *inter alia* Benjaminsen *et al*, 2009; Handzic, 2010; Reerink and van Gelder, 2010; Sjaastad and Cousins, 2009.

staff witnessed these transactions in the early days. After the track was fully closed down, the settlers continued the practice without the presence of railway company personnel. The previously visible markings of train company land began to disappear. Fences went completely, signboards were few and far between. And the tracks were mostly buried under houses, buildings, roads and pavement block. Most settlers became affiliated to a neighbourhood unit, registered as citizens and taxpayers, and received their annual property tax bills and payment slips. The settlers acquired the capacity to divide and allocate land, to sell it and rent it out. The settlers were able to use the land for purposes other than cultivation; they built infrastructure and other features. As a result, while still verbally recognizing the train company as the legitimate owner of the land, the settlers managed to reduce the land ownership of the train company to a paper-thin right.

Having succeeded in occupying the land and received recognition from the train company personnel, the settlers seized the opportunity to lay another claim to various citizenship rights. Once they had occupied the place, they socialized with neighbours and affiliated to the nearest RT, or formed a new one. This affiliation opened up access to multiple rights. The head of the RT could issue a letter of residence (a certificate of domicile) for the address the settlers had acquired. With this letter, they could apply to the *kelurahan* (the lowest unit of municipal office) for an ID card, allowing them to participate in political events and government-initiated projects (such as poverty alleviation or infrastructure improvements); they could access subsidies and apply for infrastructure services (water, electricity, sewerage). In short, settlers emerged as full national citizens.

Conclusion

Landholding is hard work. And citizenship is acquired rather than granted. The two often go together, as the story of spontaneous privatization of the railway line in Bandung demonstrates. The most significant element of the settlement process is, we believe, its gradual, multi-relational and indirect character. When people first encroached on the railway company land, they acquired very modest rights to farm and conduct a little trade, which could easily be undone. Over time, people consolidated their residence by replacing temporary dwellings with more permanent ones and by seeking recognition of the right to stay. People obtained recognition from the community through compliance with community norms of mutual help, and recognition from the local authorities (the RT and RW), from the electricity company and from the government programme PNPM by acting according to what was considered proper behaviour. The first thing to notice is that people who settled on the tracks did not have any single or privileged social relation that enabled them to stay. Rather, they established a web of interconnected relations of recognition. Visibility as a resident with a numbered house and proper address, as a paying electricity customer, as a property taxpayer or as a well respected neighbour made it easier to establish social, political and legal visibility in other capacities. The compliance in the act of transgression worked to normalize the presence of the settler.

We maintain that it makes sense to view people's access to the space on the tracks in terms of rights – they were recognized claims. Obviously, these claims were not always recognized by the appropriate *legal* entity in the statutory institu-

tional fabric; the rival claimant to that same space – the railway company – had competing rights legally recognized. Strictly speaking, the law does not reward adverse possession with rights in Indonesia, yet some actors and institutions acted *ultra vires* when they in practice recognized claims. Which of the rights would eventually prevail was not easy to say at the time of the initial settlement. However, we may want to look at the question of authority as something more dynamic than a formal government organizational chart. If authority is not merely established by law and legislation, but also at times by its invocation – by those who seek authorization of a claim – then even a mere track controller can be invested with authority to turn a claim into a right. He may not have the capacity to protect the right if heavily contested, but in the case of the railroad land in Bandung, that was not necessary. This does not mean that there are no hierarchies between institutional powers, but it means that this is contingent. Formal attribution of authority is only a part of the picture – sometimes the smaller part.

Having said this, it is worth reflecting on the substance of the rights that were produced in this web of relationships. Residents unanimously told us that they did not own the land – the land belonged to the railway company and the Indonesian state. This is a politically convenient conflation of property and the 'thing' – the land. By protesting their 'propertylessness', residents refused to see the different rights to the space in property terms, and thus steered clear of a confrontation with government authorities. However, the right to reside, to construct, to rent out rooms, and the right to transact these rights (that is, sell them, though probably not mortgage them or translate them into financial instruments), were all connected to that specific space in Bandung, and were all elements of property rights. In theory, none of the rights would qualify as perfectly exclusive private property. In practice, however, the combinations of elements of rights have enabled people to have rather secure and certain exclusive use of their property. The remarkable element is not that their rights were not fully exclusive – few rights are (von Benda-Beckmann, 2003; Rose, 1994). In the conceptual universe of writers such as de Soto (2000), people's rights were weak and incomplete – well, hardly rights at all. Yet, over time, the rights people enjoyed allowed them to find residence, exclude others, and improve and transact what they held on the tracks in Bandung with some significant measure of certainty. Moreover, the fact that these rights were not held as one single, discrete right of exclusive ownership in relation to one single institution might have had its advantages. While a title deed embodying private property rights from a single government institution is coveted, it also involves risk. All rights could have been expunged simply if this single title was annulled; or, if the institution to which people are beholden for it was weakened or dissolved, the rights would evaporate. With Indonesia's modern history in mind, multiple, partial, indirect and interconnected rights seem more complicated to undo, and hence, possibly, more *certain* in all their incompleteness.

The residents' property rights did not represent a single relationship of recognition between the resident and a single institution of public authority that guaranteed the entire bundle. On the contrary, the various property rights were linked to different citizenship rights in mutually constitutive ways. Recognized residence (addresses) led to eligibility to participate in local government (RT/RW). Presence in the eyes of local government made citizens eligible for improvement of public infrastructure (PNPM). Construction of mosques testified to the propriety

and civic virtues of the residents, and it would have taken serious determination on the part of the railway company or the municipality to knock them down. Moreover, the construction of mosques gave the neighbourhood an air of respectability and constituted a physical protection against possible operations of demolition. Payment of property tax entitled residents to have expectations of public services (sanitation and schools). Better public facilities increased the value of people's houses, and so on.

The rights to property and citizenship in this case were produced through continuous recursive construction of indirect rights. Claims to property and citizenship were interconnected and constituted a robust tenure security for the settlers. It is difficult to think of one single original right from which all other rights elements have derived. They connect in a web structure rather than in descending, linear ways. To recall our discussion of Santos and Lefebvre in the introduction, it would appear that we are dealing with rights as recognized claims, that this recognition flows from more than government institutions, and that while the multiple 'small' claims may be concrete and specific, they amount to more general and abstract general rights to the city. Obviously, this does not mean that these rights could not one day be eliminated. The history of land control in Indonesia is replete with examples of marginal groups who suffer momentary or enduring loss of rights. However, beneath these great transformations, counter-currents also flow, driven by the common (wo-)man's everyday situational adjustment. So far, 30 years of incremental, indirect recognition, and the ostentatious display of civic virtues in acts of transgression, have secured ordinary people a livelihood on the tracks.

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