Editorial

Other Housing Strategies

In spite of all the technological and economic progress that the world has experienced over the last 50 years, the number of homeless and precariously housed has increased worldwide. A major reason is, of course, the generalisation of neoliberal policies spread through globalisation. But in spite of this general trend, which is bound to continue for years if not decades to come, a large variety of formal, informal or semi-formal housing strategies have been, and can be, developed that offer better and more easily accessible housing solutions than those current political systems tend to come up with. The problem of formal state housing solutions seems to be more a lack of imagination than fundamental opposition to new approaches. After all, decent housing conditions have always been considered a stability factor against political turnover and should therefore be supported by open-minded state representatives (who are still a minority, though).

The very first number of TRIALOG, published in 1983, attempted a fair assessment of conventional housing policies for the poor in the Global South. Most of the critical statements expressed in the papers of that issue still hold true today, although contemporary ecological and climate change concerns were obviously not a topic at that time. Since then, positive mass-housing policies have certainly declined rather than increased. On the road, alternative solutions in form of self-built housing solutions have periodically been rediscovered as options, and were discussed in TRIALOG 18 (1988), but they seem simply to be too time-consuming in a fully "tailored" working environment. In this current issue of TRIALOG, we focus on the individual appropriation of state-built housing, on the effects of the penetration of the private sector into low-income housing solutions, and on user-driven adaptation of state housing or other neglected structures.

The first paper, written by Janice Perlman, the author of the legendary Book “The Myth of Marginality”, tracks back the failures of public sector interventions (which she characterises as “the helping hand strikes again”) and their effect in the same informal neighbourhoods of Rio de Janeiro in Brazil that she studied 50 years ago. Considering that very soon one in three people on the planet will live in informal areas, we should better decide to make positive use of the knowledge and talent of the billions of people living on it than relying on the state to take the lead.

Monika Grubbauer analyses the recent Mexican experience in which the state apparently restricts itself to the role of a facilitator, while it relies less on the individual settler than it does promote corporate market intrusion in both the field of informal settlement upgrading as well as the provision of large-scale workers’ housing supply. Interestingly enough, the disregard of popular demand and preferences has simultaneously produced the phenomenon of large-scale vacancy rates, neatly demonstrating an incompatibility between housing need and market supply in the low-income sector. The distinction between “formal” and “informal” has been commonly linked to a legal interpretation. The stricter the legislation, the more impractical is the enforcement of formal constructions. Vietnam, as demonstrated by Hoai Anh Tran and Yip Ngai Ming, is a highly interesting example of a complex but functional practice of resolving the discrepancy between legal norms and widespread illegal practice by means of political negotiation and community consensus.

Whereas the Vietnam paper refers to the impact of legalisation on informal constructions, Elettra Griesi reports on informal adaptation of formally produced mass housing in Cuba. Her empirical study refers to a well-intended provision of standard walk-up apartment blocks to be occupied by a rural population traditionally housed in one-storey detached cottages. The paper highlights the cultural incompatibility between both models and focuses on human and cultural values about which the local professional wisdom appears to be completely ignorant.

A partly similar process of architectural appropriation can be observed in two – once avant-gardist – social housing estates in Peru from the 1950s and 1960s, commonly known as UVs and PREVI. The author, Patricia Caldas Torres, argues that the original high architectural quality, whether anticipating later modifications by the users or not, facilitates spatial adaptation and appropriation – a very positive experience in comparison with the preceding Cuban case study. Apart from the original architectural quality, apparently the limited control exerted by a weaker state also facilitated the extent of user appropriation in Peru.

No form of state control seems to limit the appropriation of space in informal settlements around Maputo, Mozambique, as revealed by Joana da Cunha Forte. However, though less abrupt than in the Cuban case above, we observe a gradual transformation from rural to urban housing patterns. In this case, an increasing scarcity of space dictates a continuous change from outdoor to indoor living patterns. Similar to in a chicken farm, overpopulation nurtures social conflict. So far, multi-level living has not yet arrived – a potential alleviation, in respect of living space, but probably an additional cultural factor of stress.

A very special case of informal settlements, occasionally even with a rare variety of multi-storey housing, are the historical cemeteries in Cairo, Egypt, described by Zeina Elcheikh. Opportunities for adaptation of the living environment are limited; more realistic would be to refer to adapting lifestyle to the setting. The costs of living in the “City of the Dead” are mostly social which the individual residents must weight against material benefits like free lodging and a central and quiet location that provide a certain compensation.

Kosta Mathéy
Other Housing Strategies

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A Regime of Informality?

“Informal housing” and the state-society relationship in transitional Vietnam

Hoai, Anh Tran and Yip, Ngai Ming

Introduction

“Informal” constructions in Hanoi are commonplace, in terms of size and numbers, and are remarkable for their creativity. They cover a wide range of housing forms and scales: from the illegal addition of a balcony to penthouse apartments on top of unauthorised tourist hotels in the protected historic quarter, from single middle-class family houses to large-scale new urban areas in the outskirts of the city. What is “illegal” or “authorised” is often blurry or shifty, as regulations are ambiguous or conflicting and in constant change. The distinction between varying forms of resistance (by the residents and/or entrepreneurs) and complicity (by local government officials) is not always clear. The horizontal and vertical extensions to buildings, which dominate the streetscape, are certainly an eye-catching feature to any foreign visitor to Hanoi. Most of these extensions are “informal” in the sense that they neither comply with prevailing building regulations nor have they followed the required approval procedures. In fact, other types of informal constructions co-exist aside from such incremental, self-organised extensions of balconies and additions of extra floors – such shop houses transformed into tall mini-hotels or the unauthorised conversion of simple one-storey family houses into elaborate, multi-storey apartment blocks – even in the protected historic quarter. There are even large-scale commercial developments and new urban areas that completely ignore the approved master plan. However, within the context of a rapidly changing transitional regime like Vietnam, a dichotomous distinction of such activities between legal and illegal, or a criticism of a weak state failing to eradicate such anomalies, would fail to reflect the important processes of state-society interaction behind such a phenomenon. The literature on housing and urban development conceptualises such processes, which are quite common in the Global South, as expressions of informality. In Hanoi, however, such informal construction is remarkable, as it challenges the notion of the informal as primarily connected to poverty. We argue that it is, rather, an expression of interaction and negotiation between the civil society at the grassroots and a state in transition from rather orthodox socialism to a hybrid system in which state-led socialism is combined with a market-oriented economy.

This paper examines informal construction in Hanoi with data from various sources: policy documents, relevant regulations, field observations combined with interviews, project documents, as well as media coverage of cases in violation of construction orders. The field observations include observations of informal extensions built by individuals and households, as well as large projects built by
real-estate developers. These examples of informal activities are analysed through the lens of the informality perspective in critical planning theory.

**Concepts of informality**

Discussion on informality began with the observation of labour migration from rural areas to the city, where employment outside of the formal institutional economic sector was rampant. Informality was considered a representation of an inferior form of employment associated with marginality, poverty, and unprotected labour, and hence a “symptom” of the backwardness of less-developed countries. A similar discourse entered planning, urban development, and urban studies after the 1970s. In fact, however, informality exists even in “developed” countries in the form of supplementary informality, which is complementary to the often bureaucratic and inflexible labour market in the formal sector. In the less-developed economies, this type of complementary informality, in which either formal rules are not being observed or where such rules cannot catch up with dynamic changes of the country and its economy, exists extensively.

The dualist view of formality–informality has been increasingly criticised for obscuring a full understanding of urban informality. McFarlane highlights the point that informal and formal practices are inter-dependent and mutually enabling or delimiting their field of influence. Roy argues that the “informal” does not necessarily represent an unregulated sector in which state regulation is absent or urban planning has failed. Rather it is a form of “de-regulation” in which “law itself is rendered open-ended and subject to multiple interpretation and interests.” The state is not out of the scene but, instead, is a player as it has the power to determine what is legal and what is not. Informality is not necessarily connected to the poor, but is a specific feature of the state power structure. In fact, “calculated informality” is frequently practised by the state through its selective enforcement of laws and partial authorisation of that which has been classified as “unauthorised.” In such cases, the state is an informalisng entity from above and informality is “an integral part of the territorial practices of state power.” In other words, it is the state itself that produces urban informality.

Roy uses the term “urban informality” to emphasise “an organising logic, a system of norms that governs the process of urban transformation.” She proposes seeing urban informality as a “mode of urbanisation” involving “a series of transactions that connect different economies and spaces to one another.” Informality has to be understood as “an idiom of urbanisation, a logic through which differential spatial value is produced and managed.”

Along the same line, Yiftachel provides the concept of “grey cities” to refer to urban phenomenon that lies between full state sanctioning and expulsion: a conceptualisation of the stratification of informalities that involves processes of whitening (condoning) or blackening (criminalising) where the informality of the powerful is often whitened while other forms of informality remain grey or blackened. Informal spaces produced by the powerful – grey space “from above” – tend to be lauded and formalised. In transitional societies, informality (particularly in spatial entities) involves an array of overlapping and inter-locking processes of urbanisation, industrialisation, modernisation, migration, etc. This inevitably increases the “observed” informalities embedded in the processes of migrating from the rural lifestyle to the urban way of living, from the economy of self-sufficiency to commodification, as well as the simple instinct of survival of rural migrants in cities or the adoption of “imported” practices in governance (e.g., neoliberalism, globalisation).

**Doi Moi and urban housing development in Vietnam**

Since the national economic reform programme, which started in 1986 and is generally referred to as “Doi Moi”, Vietnam has experienced spectacular economic growth, which has fuelled a rapid expansion of cities. The Vietnamese government considers urbanisation a priority condition for socio-economic development – especially in terms of industrialisation and modernisation. By 2009, about one-third of Vietnam’s population lived in cities; the urban population is expected to exceed the rural one by 2040. Rapid urbanisation inevitably creates a huge demand for infrastructure, housing, and urban amenities. Alongside manufacturing, the construction industry is the economic sector that is expanding most rapidly. It is also the sector experiencing the most radical transformation and commodification.

Before Doi Moi, housing construction in urban areas was a state monopoly. The housing areas were designed by state institutions and constructed by state companies. Private construction activities were not allowed. However, due to the lack of resources, the amount of housing produced was far from sufficient, and the housing shortage was acute. Housing allocation standards were very low, typically 4 to 6 m² per person, and overcrowding was widespread. As the apartments became too cramped, the residents extended their living space by adding space at the balconies and on the public ground in front and behind their apartments. These activities were in violation of the rules and thus “illegal”, but they were usually tolerated. The extended structures could be kept after a fine was paid.

As part of the 1986 reforms and in order to help state employees solve their housing problem, the ban on self-help building was lifted and local governments began to allocate land-use rights to state employees for self-construction activities. Furthermore, the unclear status of urban property encouraged many people to renovate and enlarge their property. This opportunity triggered off a huge wave of private housing construction by individual households, termed “popular housing”, which actually became the predominant form of housing production in the early 1990s. In fact, many of the private “popular” housing units were constructed (also including renovation and enlargement) on land with unclear property rights.

Even when a formal system for the transfer of property rights with proper legal papers was gradually established after Doi Moi, a parallel para-legal system of land and property rights still existed in which transactions took place without proper legal papers.

Apart from new construction, renovation activities, most commonly the addition of extra floors to existing buildings...
The term "small-scale capitalism" has been introduced by McGee (2009).

Government control and regulatory framework

The high level of informality in Vietnam cannot be attributed to a lack of regulations. In fact, building activities are highly regulated. Between 1992 and 1999, for example, nearly 120 new laws and ordinances, and thousands of implementing regulations and guidelines mark the apparent attempt to match the need for new regulatory framework necessitated by the economic reform. Many of such new regulations are relevant to land and housing.

Besides, even newly enacted laws and regulations are also subjected to rather frequent review and modification. For example, the land law, which was put in place in 1987, has been changed three times: in 1993, 2003 and, most recently, in 2015. The housing law, which was issued as recently as 2005, was amended in 2008 and updated again in 2009 before being replaced by the new housing law in 2015. The side effects of such rapid but uncoordinated changes may create clashes with other relevant laws that have not been revised, and legal documents also emerge from multiple sources. This leads to inconsistency, contradiction, and ambiguity in the legal bases, which results in confusion and opens the door for case-to-case interpretation by officials.

Furthermore, as new national laws and ministerial decrees only mean to offer a national legal framework, local governments are required to work out the implementation details. Governmental circulars meant to clarify the implementation details tend to be issued several months later, thus resulting in a delay in the implementation and creating the space for local governments to interpret the laws and regulations to their advantage. Even if the implementation guidelines were unproblematic and the inconsistencies in the legislation were resolved, there would still be substantial room for interpretation at the local level. This legal ambiguity is not necessarily a sign of weak state power but is, on the contrary, an instrument of rule, argues Gainsborough, meaning that keeping people in a state of perpetual uncertainty is a key feature of indirect government.

In fact, the Vietnamese urban development control system is also characterised by over-regulation. The system is built on the legacy of a central planned economy, whereas many regulations and standards reflect the government’s directive rather than social reality or what the market needs. Examples in this regard include regulations on minimum plot sizes (of 50 m2 in some cities) and minimum requirements for green areas per person in some urban areas. Cumbersome procedures and over-regulation make it difficult for households and small businesses to comply with the regulations and pushes many into informality. Study of the informal economy of Vietnam has found that informality is a product of government-business interactions in an overregulated business environment with very high compliance costs and discretionary behaviour by officials. There is a clear gap between “de jure” legal measurements and their implementation (de facto measures).

Widespread corruption also makes formalisation expensive and, in turn, encourages informality. The World Bank’s enterprise surveys in 2009 found that of 22% of the businesses that had submitted applications for a land-use certification in the previous two years, an informal gift or payment was expected or requested (31 cases). Of the 28% of businesses that had applied for construction permits within the previous two years, 41% received requests for an informal payment or gift.

The widespread informality in thinking and practice can be attributed to a general attitude of mistrust and resistance to central laws and formal orders that is prevalent in Vietnam, probably due to a long history of foreign domination. A well-known Vietnamese proverb goes, “The laws of the emperor give way to the customs of the village.” Confucian teaching places moral principles (such as virtue and sentiment) higher than legal rules, and this tradition...

31 The term “small-scale capitalism” has been introduced by McGee (2009).
32 McGee, 2009: 236
33 Quinn 2002 in Tenev et al. 2003:18
34 Decree 19/2008/QH12
35 Decree 34/2009/QH12
36 Decree 65/2014/QH13
37 Tenev et al., 2003: 18
38 Tenev et al., 2003: 19
39 Gainsborough, 2009:269
40 The World Bank, 2011
41 The World Bank, 2015
42 Tenev et al, 2003:14
43 The World Bank, 2011:161
44 The World Bank, 2011:166
45 “Phepvuaphaithua le lang”
of thought has a substantial influence in the people’s way of thinking, and practices. A survey of businesses asking what methods they would use in cases of dispute revealed that few would contact the authorities, and even fewer would appeal to the court.\textsuperscript{46}

This may explain the government’s pragmatic stand to informal housing. Demolition has been carefully avoided, except for road widening. After Doi Moi, parallel to the introduction of a new legal framework for housing production was the legalisation/formalisation of informal construction.\textsuperscript{48} The Land Law of 2003 acknowledged illegal houses built before July 1st, 2004,\textsuperscript{49} and allows households to register such illegal houses.\textsuperscript{50}

\textbf{Regulations on construction activities}

There are different purposes to impose development control on construction activities. For Hanoi city, different development-control regulations are applied to different areas in the city. They intend to limit population and construction density in the already dense city centre and to protect and preserve the architectural and historical values of the Ancient Quarter and the French Quarter, as well as to ensure that new development follows the general plan. While the first two goals relate to the management and protection of the existing urban structure and are more stable, the development guidelines set up by the city’s general plan are subject to changes following changes in urban development strategies, socio-economic priorities, etc. With master planning being the instrument of control of the centralised state, the plan can be out of touch with local market and social realities. There is a lack of transparency in the planning and decision-making process, and the citizens are not consulted. Hence, many stakeholders are not informed nor convinced about the necessity of a certain plan or regulations.

The measures taken in cases of violations in construction activities may include a moratorium on all construction works, withdrawal of electricity and water supply, forced removal, fines for the damages incurred, and administrative sanctions. Serious breaches may be dealt with under criminal law. Certain by-laws may foresee “administrative sanctions” – some of which allow for the measures of “fine and let live”. Here, it is stipulated that this is a possible sanction when the violated buildings are “discovered” by the authorities after they have been completed and put into use, but built within the construction limits and fulfilling the functions specified by the master plan. On the other hand, forced demolition is the other possible extreme action.

The provisions for enforced removal of illegal constructions have received negative response from many parties, and are considered by many as a wasteful way to handle the citizens’ and state’s resources. Even officials have argued that “some buildings if let remain do not affect the urban landscape and the surrounding”. Informalities, in this case, can be seen as a result of overregulation. Here, we have an example of the use of the language of informality by a legal official to explain an informal action.

\textbf{Typologies of informalities}

\textit{Illegal extensions: negotiated space?}

Annexes protruding out of buildings and on roofs are common sights in the residential neighbourhoods of Hanoi. Although such sights are also commonplace in cities like Taipei and the inner city of Hong Kong, in Hanoi they are much more visible due to their size and numbers. For instance, a two-by-six-metre temporary wooden structure hanging on the fourth floor of a dilapidated building, without strong support, appears to be scary. Small and random samples of a Hanoi street section indicate that, in fact, most houses have various degrees of extension.

More intrusive extensions tend to be found on the ground-floor level, mostly used for business. Some extensions even reach to the second floor to allow for advertising for the shop or to accommodate a store over several floors. Opening a small family business promised a lucrative opportunity in the early years of the economic reform, after private businesses were no longer prohibited.

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{figure2.png}
\caption{A section of Bui Thi Xuan Street in the Hai Ba Trung District of Hanoi. Most buildings have extensions or added floors (Photo collage: Nguyen Thao Trang)}
\end{figure}
Ostensibly, these undertakings in creating extra space allow ordinary people to bridge the gap between what they need and what they get, if at all, through the official procedures, which are either unclear, too costly, or too cumbersome to follow. Informal activities can thus be perceived as a “fence-breaking” act, ignoring impractical rules while meeting urgent needs. Sometimes, such behaviour later led to the issue of new laws or simplification of existing ones. At least, it widens the space of tolerance of the otherwise slow-moving state administration, and to a large extent explains the large volume of the urban informality phenomenon in Vietnam.

Understandably, extension activities become “normality” when it is widespread:

“I think majority of houses are extended. Almost all the families I know make extensions. If they can’t get to live on the first floor, they go to the second and third floors, if not move up higher to make extensions to enlarge their living environment.”

The double role of the authorities at the ward level and the resident group calls for deeper analysis. One the one hand, they are agents of the state in day-to-day contact with the grassroots who are entrusted with the responsibility of governance. On the other hand, they share the daily life with people in the neighbourhood and are dependent on the people’s support. When absolute state authority is brittle at the grassroots level, cooperation of the residents becomes essential to maintain a minimum level of respect for the state agents in the neighbourhoods.

Single house construction – a double informal process

For single house construction, the most common violation is the building of extra floors or construction without a building permit. According to news reports, many cases of violation have been sanctioned but many more were tolerated. The process from the discovery of violation to the final decision of enforced removal usually takes a long time, up to a couple of years. This raises several questions as to why some cases were sanctioned and others were not, and what the reasons were for slow action or inaction by the authorities.
• Box 1

The construction was started on 15-9-2010 and completed on 15-9-2011. The first violation report was registered on March 28th, 2011, half a year after the start of construction. The ward authorities subsequently issued several decisions, including a construction-stop order, a decision for withdrawal of electricity and water supply services, etc. On 23 April, the owner removed a part that was not in compliance with the building permit, and pledged to continue the construction according to the permit. Following this, electricity and water was again connected. However, when the building was completed in September 2011, the building had 9 floors and several other features not sanctioned by the building permit. More than a year later, on January 15th, 2013, the removal order was issued and on 21 January, the ward finally undertook forced removal of the extra floors.

• Box 2

The first violation report was made on 3/1/2014 and the construction stop was issued on 6/1/2014 by the ward. One has an impression that the authority acted promptly. However, construction still continued and all 8 floors were built without further actions from the authority. Almost a whole year later, on 15/12/2014, a sanction decision was issued. Electricity and water supply to the building was to be disconnected and the family was requested to remove the extra floors within 3 days. The order also specified that forced removal would be carried out in case of non-compliance. However, the order has never been implemented. The building of 8 floors has since completed and has been put to use.

Boxes 1 and 2 show two examples of cases in which the owners built more floors than were allowed by the building permits.

Figure 6: A section of Hang Gai street at the border of the Ancient Quarter. Many residential buildings were transformed into hotels and violated the regulations of max building height for the area (Photo collage: Nguyen Thao Trang)
The extra floors were removed by the authorities in one case, but not in the other case. It is puzzling why stronger actions were not employed against the building in the Ancient Quarter, which is subjected to a stricter development control according to the regulations to preserve this historical area.

In both cases, the authorities kept documenting the violations but this did not necessarily lead to corrective action. Where it did, it took a long time – up to a couple of years after the building was put to use – for the authorities to finally issue and enforce a removal order. Does inaction imply a form of complicity? It has been suggested in the media that the ward authority assisted the violation by not taking action for almost a year. Were some informal negotiations perhaps taking place “behind the scenes” during this time?

The next question is: What finally drove the authority to enforce sanction against the second case? Was this because, as indicated in the news, the owner “did not cooperate with the authority” and “created troubles in the process”??

In both cases, there is the tendency for the owners show defiance to the sanctions and reluctance by the authorities to employ forced removal. Earlier studies have shown that ward officials are reluctant to employ forced removal. One reason is that forced removal involves a clash with the people – something the local officials prefer to avoid. Another reason could be that ward authorities live closely with the residents in the ward and are dependent on the cooperation of the latter in their work and thus tend to avoid open conflicts. The daily newspapers frequently report many instances where ward officials turn a blind eye to, and indirectly assist, the violation of construction orders.

As discussed earlier, overregulation seems to play a role in the wide-spread non-compliance of both the residents and the officials. At the same time, the cases could also suggest an informal involvement by the officials. Many ward officials share the residents’ sentiment that forced removal is a waste of resources, which eventually motivates them to turn a blind eye on more-or-less minor infringements. A ward official was quoted as saying, “To tell the truth, people’s needs are unlimited, everybody wants to build more [floors], especially in the Ancient Quarter, the houses are small. People have invested so much money to build a place here, of course, they want to extend. We try to prevent it from the start, because it is too troublesome to let them build in the first place and then come to remove…”

It is possible to say that in each case of informal construction, we can observe a double informal process: one in regard to the construction of a building that does not conform to the rule, the other in regard to the informality in the subsequent treatment of the violation by the officials.

Informality in high power layers

In the second case of the above (Image 4A), we see that both the ward authority and the district inspection authority issued several reports and sanctioning orders, but none of them seem to have had any effect. According to a district official, the family has a “connection” with a “higher authority”, and therefore it is difficult for the local authorities to take action. While this points to a case of corruption, it also calls attention to the power relationship between the local government and entrepreneurs, and between different government levels.

It can be observed that people or companies with substantive power are more likely to experience unenforced sanctions for illegal construction. A typical case would be the mixed-development residential and office building cum museum on a site of 316 m2 at No. 55A & 55B Ba Trieu Street in Hanoi. Apart from the violation of the building permit – 14 built floors instead of 9 – several other violations of construction law and regulations (regarding construction, set-back, and height limits) were also found in the construction permit granted by the Department of Construction. It was also revealed that the construction limits had been issued twice and modified once between January 2011 and March 2012, each time allowing the building of more floor space. Similar to the cases presented in the previous section, several documents of violation were issued by the ward but no action was taken. When the district inspector finally took action, it only requested an administrative sanction in the form of a fine. This was an act of discretion, since it took place before the issuance of the Decree 121/2013, which allows payment for certain categories of building. While under inspection, authorities at many levels – from the ward to the district People’s Committee, the Department of Construction, the Department of Culture, Sport and Tourism, and even the inspection office at the Ministry of Construction – were involved in assisting the investor in the formalisation of the building. Only upon further outcries from the public did the inspection office of the municipal party committee finally get involved and the owners ordered to pay a fine and to remove the extra floors. Both the ward and the district authority were held responsible for not taking proper action in time, but only got a warning. This case shows that big projects with more-severe violations get even milder treatment than many residential buildings. It illustrates the point highlighted in the media that the authorities tend to chase small-home builders while turning a blind eye to larger violations by big investors.
Zones of exception and corporate informality

Getting around legal frameworks is just as common in much larger projects, such as the new urban zones developed by large developers on the fringe of many Vietnamese cities. The new urban areas – large-scale real estate developments with residential housing and associated services – are examples of large-scale urban informality in the sense that the breaching of the law takes place already on the side of the public authorities who whitewash any infringements by officially authorising such developments that would normally involve all sorts of breaches of the master plan as well as the urban planning law. This practice of informal change in de facto land use is widespread in the new urban projects.

A common change is the increase of accepted gross floor area for housing, business, and shops. Another change is the omission of public facilities such as playgrounds, parks, public schools, and kindergartens. Our study of four new urban zones in Hanoi (Trung Hoa Nha Chinh 32ha, Linh Dam 260 ha, Viet Hung 210 ha, and Ciputra 395ha) revealed many changes to the initial approved plans. For example, in Trung Hoa Nhan Chinh the majority of residential buildings were changed into taller buildings (from 15 to 17 floors or 9 to 18 floors). Three areas did not provide a park, despite parks being indicated in the approved plan. In one area, the area intended for the park was turned into a parking lot.

Considering that the new urban zones were introduced with the argument of permitting better control of urban development and avoiding the situation of uncontrolled informality that is connected with self-built, small-scale housing construction by individuals and small businesses, it is ironic that the policy itself breeds informality in even larger scale. The prevalence of informal practice de facto formalised form of housing development in Hanoi opens a new perspective on informality that move beyond the
thinking that informal and formal are separate entity. We can see this as an illustration of what is termed the “zone of exception” by Ong: a form of informality created and shaped by state67.

Discussion and concluding remarks

The paper argues that the widespread existence of informal housing and associated construction activities in Vietnam cannot simply be interpreted as a lack of regulation or as merely a mirror of widespread poverty, as it is a common phenomenon in less-developed countries. Although Vietnam’s governing capacity may be weak in some areas68, hundreds of laws and decrees have been issued in attempt to catch up with the necessary formal framework of the economic reform that was launched in 1986, many of which relate to land, housing, and building construction.

Although many house extensions and new building activities were “illegal” within the social and political context in which they emerged, the generalisation of such practices and the impacts of their proliferation follow the self-propelled rule of need and practicality. They follow a social negotiation process which, elsewhere, created the established formal system over decades if not centuries – which does not protect them from becoming outdated little by little every day which does not protect them from becoming outdated little by little every day.

While the cases presented here can be termed “informal” for not having gone through all the required approving procedures or regulations, not all of such buildings and structures are unauthorised since they are erected in consent with neighbours and tolerated by local officials. Informal construction in Hanoi can be interpreted as processes of deregulation rather than as a product of a legal vacuum. The process may even be interpreted as seeking a balance between contrasting values and interests rather than an interpretation using the usual black-and-white or right-and-wrong dichotomy.

The presented concept of informality does not only refer to the physical buildings, but also to the procedures and negotiations between the partners involved. The handling of the cases by state representatives is informal as it allows, in practice, a certain degree of discretion and interpretation and may be tuned according to and at the different levels of power and authority on both sides, which

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67 Ong, 2006
68 Yip and Tran, 2008
may lead to disparate outcomes and spur further informality. The agents involved at the neighbourhood level, such as ward officials and resident groups, may go a long way to avoid forced removal and generally prefer to apply various forms of mediation involving persuasion and compromise. Through these mediation processes, the boundaries of state authority are constantly re-negotiated.

The paper also shows that over-regulation – regulations that are disconnected from socio-economic and market reality – provides the breeding ground for informality, at least in the Vietnamese context. This morally puts violators in the right position and the executor of the law in the wrong. It creates situations where the people reclaim the power of defining the boundary of what is acceptable and what is not.

Echoing Roy’s propositions on informality, informal construction activities in Hanoi are not mainly a practice of the poor, as it is the case in most other countries. Informality is embedded in wealth and power when it comes to the production of space. Typical actors include the entrepreneurs, who need additional space for their business, and the middle class, who have the means for investing in extensions of their homes (which allows them to stay in the relatively privileged and expensive inner city of Hanoi). Individuals and businesses with sufficient wealth and power are more likely involved in projects that do not conform to the rules, and very often they do not face high-level sanctions. Those who have political connections or the economic power are in a more-advantaged position to negotiate for exemption and tolerance, or know how to sneak through the radar of surveillance. This constellation also offers opportunities for those who have the political or administrative authorities to gain “informal” financial reward.

Many documented cases illustrate the “stratification of informalities” as discussed by Yiftachel. Adding floors in a single house can result in their enforced removal, while the grey spaces “from above” – such as adding several floors to residential towers and turning land officially reserved for public greens into a parking lot, which is common practice in the new urban zones – are not even discussed in terms of informality. The selective enforcement of laws and regulations as well as the various compromises in Hanoi illustrate the kind of “calculated informality” discussed by Roy. The cases of Hanoi show how the formal and informal are not a separate sector; instead, they form a continuum of activities and transactions that “connect different economies and spaces.”

While the reliance on discretion undoubtedly involves corruption, an interpretation of “common” cases of informal construction as instances of corruption reduces the phenomenon to the behaviour of individuals and neglects the issue of how discretion and “soft” jurisdiction is inherent in Vietnam’s system of urban development control.

This can be explained as a system in which informality is an integral part of the spatial practices of the state. Informality is a predominant feature in the city’s urban development scene, and it is also a key element in urban development policy. Hanoi evidently provides a prime case for the argument made by Roy that urban informality is a mode of urbanisation, a logic of development that is grounded in Vietnam’s specific socio-political context, cultural values, and development trajectories.

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