

An Investigation on to ‘Squat and the Exemption of Unauthorized Buildings -Gecekondu’ in Turkey

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Abstract

In Turkey, the gaining of immovable proprietorship is done by registration into title deed register. For this reason, contracts, that intent transferring immovable proprietorship, are arranged officially. In spite of this certain rule, also by the influence of various economic and social reasons transferring immovable proprietorship to another person is digressed from official way and the rule that is anticipated by Turkish Civil Code.

On the places that are subjected to public or private proprietorship illegal active usage types and immovable transfers without having a title deed could not be prevented despite all taken precautions. In order to get rid of this situation, starting from 1948, in 55 years, 17 squatter and development exemption laws were approved. By squatter law dated 1966 and issued as 775 that was the most comprehensive arrangement on that topic, nevertheless problems were not solved. Thereafter squatter and development exemption law were put into effect in 1983 issued as 2805, 2981-3290-336.

Therefore applications and executions of squatter and the development exemption law has been an important part of working fields of municipalities, directories of cadastre, title deed register offices and surveying private sector for last 20 years (1983-2003). By these applications, eliminations of immovable transfer without title deeds, illegal land usages in certain periods, realization of all operation in cadastre and title deed register have been intended. Nevertheless, neither in urban areas nor in rural areas the purpose has not come true. The sales, transfers of immovable without title deeds could not be prevented.

In this paper, the processes that cause to squat and the exemption of unauthorized buildings are considered. The subject of squat and the exemption of unauthorized buildings is investigated by means of surveying engineering approaches. Moreover Istanbul is one of the cities that suffer due to squat and the exemption of unauthorized buildings; it was the capital of many empires in the past and now is the greatest nominee of being Cultural Capital of Europe. In this study Istanbul is taken as a specific and perfect example for investigating such situation, therefore all are discussed, the problems highlighted and recommendations made based on mainly Istanbul pattern.

1. INTRODUCTION

The percentage of urban population in Turkey was 24.2% in 1927 and did not show any significant change till 1950 when it slightly rose to 25%. Nevertheless, it has a tendency of increase

afterwards and rose to 64.9% in 2000 (see Table 1 and Table 2). Percentage of urban population in Turkey is calculated based on the residential areas whose population should be more than 10000. Since the minimum population required for the establishment of a municipality in a residential area had been 2000 before 2005, and 5000 now, more people live in the towns which have municipalities. According to this criterion, 79.32% of the population of Turkey that is 67,803,927 lives in residential areas under municipalities (DIE 2003).

While the annual growth rate of the world population, which has been doubled in 40 years between 1950 and 1990, is 1.7% and 0.2% in Europe, it was 2.64% in Turkey. In this period, i.e. 1950-1990, percentage of urbanisation in Turkey is two times more than the annual growth rate of the population. These assessments show a rapid urbanisation process in Turkey. Although the population growth rate has increased in recent years, it is still considerably higher than developed countries. 2% annual population growth rate and 3.2% urbanisation growth rate in the period of 1990-2000 are the fundamental indicators of this fact (DIE 2003).

Population growth rate in Istanbul is above the average rate in Turkey. Population of Istanbul in the year 2000 is about 14.8% of Turkey’s population. While the population density in Istanbul (km² per capita) was 204 and 529 in 1950 and 1970, respectively; it boomed up to 1753 in 2000 more than twenty times the average value of Turkey. As a result of the rapid population growth in Istanbul and migration from rural areas to the urban areas, forests and agricultural lands are under a great pressure (DIE 2003, Table 3).

Table 1. Population and Area Information in Turkey and Istanbul

| Year | Turkey | | Istanbul | |
|------|------------|-------------------------|------------|-------------------------|
| | Population | Area (km ²) | Population | Area (km ²) |
| 1950 | 20,947,188 | 769.604 | 1,166,477 | 5.712 |
| 1955 | 24,064,763 | | 1,533,822 | |
| 1960 | 27,754,820 | | 1,882,092 | |
| 1965 | 31,391,421 | | 2,293,823 | |

Table 2. *Population Growth in Turkey and Istanbul*

| | Turkey (1) | Istanbul (2) | 2/1 |
|------|-------------------|---------------------|------------|
| 1970 | 35,605,176 | 3,019,032 | 8.5 |
| 1975 | 40,347,279 | 3,904,588 | 9.7 |
| 1980 | 44,736,957 | 4,741,890 | 10.6 |
| 1985 | 50,664,458 | 5,842,985 | 11.5 |
| 1990 | 56,473,035 | 7,195,773 | 12.7 |
| 2000 | 67,803,927 | 10,018,735 | 14.8 |

38% of surplus value in manufacturing industry is produced in Istanbul. The fact that half of the tax income comes from Istanbul shows how a big role this city has in the economy of Turkey. Economic, natural, historical and cultural properties of Istanbul attract people living in the other parts of Turkey and increase migration tendency towards. These developments also have been leading into the construction of thousands of houses erected illegally without being based on development plans.

Total household number in Istanbul is 2,277,030 in the year 2000, while average number of household members is 3.8. This is the indicator of excessive housing stocks in Istanbul (IBB 2003:854, Keskin et al. 2003: 410). Moreover, parallel to the decrease in the population and urbanisation growth in Turkey, the number of people per house has been decreasing. This figure shows that the major problem is the quality of the houses rather than the number of them (DIE 2003).

In the near future, instead of creation of dense residential areas, urban regeneration projects as well as the establishment of more safe and quality living spaces would be on the agenda in Istanbul. Therefore, Istanbul city, which has completed her urbanisation process to a certain extent, would be expected to host the activities for the improvement of construction standards in the years ahead. However, Istanbul has 1,070,808 houses, 625 districts and 43750 streets, and these huge numbers indicates how big the dimension of such activities will be.

In Turkey, one of the most widely investigated topics is “gecekondu” and “unauthorised buildings”. ‘Gecekondu’ is a specific Turkish word that indicates an illegal action such as building up a small house within a night by squatting on a land. Therefore the word of ‘gecekondu’ is mainly used within the text to explain such situation/action similar to ‘squat’, and ‘squatting’. As is mention on the first sentence of this paragraph, one of the most widely investigated topics is “gecekondu” and “unauthorised buildings” in Turkey. Starting from 1950, Turkey and Istanbul, the largest city of Turkey, have developed in an untrustworthy way with mostly unplanned and uncontrolled settlements. As seen from the indicators above, forests, agricultural land and water basins have been squatted or destroyed dangerously. In addition many ‘gecekondu’ have been built in geologically improper areas.

In this paper, spatial problems and urbanisation efforts that took place parallel to the rapid population growth in Turkey and Istanbul are discussed.

2. URBAN PLANNING EFFORTS

The population of Istanbul reached to 12 million by 2006. In case of having the current population growth rate remained, her population is expected to rise to 20-22 million in 15-20 years. Whereas, according to the 1/100000 scale “Istanbul Environmental Order Plan” prepared by Istanbul Metropolitan Municipality in July 2006 (IBB 2006), the limit for Istanbul’s population is 16-17 million in terms of conservation and usage balances.

In other words, the number of possible inhabitants to get settled in Istanbul till 2020 is expected to be around 4-5 million.

According to the data of Istanbul Metropolitan Planning Institute, the migration towards Istanbul should be put a break on. This policy makes it inevitably necessary to determine the land use principles in relation with national and regional policies and to follow these policies not only in Istanbul but also in all over Turkey. For its success in this context, initially the current conditions should be investigated.

3. SPATIAL PROBLEMS AND URBANISATION EFFORTS

According to the juridical system in Turkey, acquisition of immovable property ownership is done by registration in land records. Validity of the contracts aiming at transferring of immovable property ownership depends also on the legal arrangements of this transfer. Consequently, concerning with the Turkish Civil Code and Turkish Building Code, all buildings must be registered to the land records. However, because of the rapid population growth and urbanisation process starting from 1950, order and discipline of land development system loosened and control mechanism weakened. Attractiveness of illegal unearned income in urban areas, inadequate income level of people and the tendency towards seeking a solution for housing with cheaper ways encouraged the settlements contrary to the land development plans.

Determination of residential areas providing that any settlement should be established with respect to the current plans, health, scientific and environmental conditions is a mission undertaken by either municipalities in contiguous areas or governorships out of contiguous areas. However, since the foundation of Republic of Turkey covering 84 years (1923-2007) unauthorised settlements could not have been prevented.

Because the state and local authorities failed and remained weak to prevent, “Gecekondu and Unauthorised Settlement” has transformed into a de-facto settlement model. The possible reasons of this phenomenon are given by TOKI (1996), KELEŞ (1978), TEKELİ (1982) and KELEŞ (1996) as follows:

1. Economic and social conditions of Turkey,
2. Extreme population growth,
3. Rapid urbanisation process,
4. Migration from villages to the urban areas,
5. Failure in physical planning,
6. Inadequacy in house supply.

Struggle against unauthorised settlements and ‘gecekondu’ could not have been socialised. Furthermore, illegal developments could not have been prevented. Therefore poverty in rural areas was transferred to the urban areas. Impoverishment process continued getting deeper particularly in urban areas. This process that is still going on is considered as the reflection of economic, social and political structure and its presence in the space in Turkey (KELEŞ 1996).

The only solution to end this situation that had developed contrary to laws regarding the development plans, has been seen as the legalisation of such issues and processes. In order to grant exemption for ‘gecekondu’ and unauthorised buildings, 17 different law codes have been declared in the last 59 years (1948-2004).

After 1980, unauthorised settlements departed from being “housing areas” of low income groups migrated to larger cities and became totally a phenomenon of unearned income (ITO 2001: 10). The fact that the ‘gecekondu’ are erected in public land has also been one of the factors increasing unjust gain. In this way, the created unearned income stimulated unlimitedly the desires of people and politicians for looting. KONGAR (1998: 570) has an opinion that all political groups and individuals have contributions to the unwanted living conditions in urban areas by participating in this unearned income looting. The real gain in the purchase and sale of these unauthorised buildings has been taken not from the building itself, but from the land it is erected on. Therefore the problem in “gecekondu and settlement exemption” is bounded in the “ownership of the land”.

In 1984 around 1.5-2 million people applied for benefiting from the latest settlement exemption law. During these executions, millions of square meters of public land were bargained away. Title deeds of thousands of lots with 200-400 squaremeters are sold out to the applicants. Through these executions the number of people possessing small lands in urban areas has increased. The occurring small land ownership today is one of the biggest obstacles for strategic planning and urban regeneration.

According to an investigation carried out just after the 17 August 1999 Marmara earthquake, 80% of the buildings damaged or destroyed as a result of the earthquake had benefited from the exemption granted for unauthorised buildings (YILMAZ 2002: 142). Even the earthquakes did not stop the process of unauthorised settlements in Istanbul, in Turkey. Moreover, the efforts to use the psychological atmosphere after the earthquake as a turning point to create a deeper public awareness about the dangers of unauthorised settlements and to start a transformation process have not been so effective.

According to a survey by Istanbul Chamber of Commerce

(ITO 2001), only 7% of the buildings constructed properly with respect to the building code. In this context, 93% out of total 1070808 buildings in Istanbul have been constructed contrary to the rules in the building code. Because of this, the records regarding these buildings cannot be compiled with respect to the condominium code. Sales and purchases on these buildings have been then contracted based on the ownership of the share of the land. This phenomenon caused many problems in practice. As a result of this, updating or renewal of cadastral and land registry information could be hardly performed.

In addition to the problems stated above, historical structure of Turkey, a country who has been the motherland of 15 different civilizations throughout the history, has been damaged. Furthermore, natural and cultural values have also been considerably damaged. Exemptions for ‘gecekondu’ and unauthorised buildings increased the problems rather than decreasing them. So it has been clearly understood that legalisation by exemptions is a never-ending process. Every exemption had created an expectation for further exemptions that realised later. 17 exemptions granted or unauthorised buildings are the most important proof of this process.

‘Gecekondu’ and illegal housing in Turkey has become widespread as a result of failure and negligence of several sectors including surveying, land registry and cadastre. Moreover it has become a source for the developments of erosion on legal system and values of collective living and behaviours, and threatening public order.

It seems that this process common for developing countries would continue till these countries become developed both quantitatively and qualitatively. However this process should certainly be intervened by a planning approach that is fund raising, applicable and sustainable. In other case, it is impossible to solve the problems with an approach neglecting today’s realities and values.

In this case, in the order of urbanisation and housing, a new system should be established. For this purpose a different system including the reorganisation processes should be accomplished. Because, it is necessary to built up a coherent system to provide the security of humans and properties. So society and individuals should be made living together with institutions and rules. The success in this case will not only modify the understanding of urbanisation and housing, but also, by the application of legal rules equally to all citizens, will establish the equality and social justice in the society and between individuals.

The current dominant concept in the European Union is that an ideal urban development could be possible by providing sustainability in three fundamental fields: economy, society and environment. (European Commission 1999).

This approach is explained in the spatial strategies of the EU as attaching importance to the preservation and regeneration works conducted with the aim of removal of settlements created by uncontrolled and rapid urbanisation process. Urban regeneration strategies play an important role in the

process of conservation and regeneration. The fact that the life quality level of poor districts in England has undergone a change as a result of the policies followed in the last 20 years makes this common opinion in the EU correct and raises the importance of urban regeneration.

(KESKİN et al. 2003: 412).

The negative situation in terms of urbanisation in the cities of Germany has been given response by urban regeneration (MEERHEIM 2007). After the unification of Democratic Republic of Germany with Federal Republic of Germany, the urban regeneration process in this country have been seen to a certain extent as part of the objectives to integrate the eastern provinces with the west. But in fact it is today perceived as a task of whole Germany. (BMBF 2003). The legal arrangements in Germany reflect the important of this issue. Urban regeneration is for the first time arranged under four articles in the German Building Code that was adapted to the *Acquis Communautaire* in 23 September 2004 and rearranged last in 21 June 2004 (German Building Code, Articles: 171a, b, c and d).

In Turkey it has been clearly perceived that urban regeneration cannot be done only based on development plans. Unless the development of the country in many fields could be managed, this negative situation would continue to exist. In countries like Turkey having limited sources it is impossible to conduct urban regeneration processes without the support of the central government. In other words, urban regeneration is not only a task of the cities but also a task that should be considered at national level. Nevertheless it should not be neglected that the motivating approaches of local administrations towards planning and application processes have a direct impact on the success of the projects.

4. AS THE CONCLUSION: ISTANBUL: TOWARDS BEING THE CULTURAL CAPITAL OF EUROPE IN 2010

European Union Council has selected Istanbul as “2010 European Cultural Capital”. As known, the idea of “European Cultural Capital” was first suggested in 1985 by Melina Mercouri, then Culture Minister of Greece. In the same year, EU Council determined the content of the project and put it into practice. Since 1985, every year one of the cities in EU member states has been selected as European Cultural Capital.

The value appreciated for Istanbul is, at the same time, the reflection of rich variety and values of cultural heritage of Turkey. Many countries in the world have rich cultural heritage and the values of world’s heritage. However there is no country having a heritage competing Turkey’s heritage, a heritage of civilisations with various and rich cultural presence. In terms of the presence of heritage of civilisations, Turkey is an open-air museum with the most various and richest presence.

As well as Turkey is concerned, magnificent heritage of consecutive civilisations: this soil has the magnificent heritage of Hittite, Phrygia, Lykia, Lydia, Ion, Urartu, Rome, Byzantium and many other civilisations and finally Seljuk Empire and Ottomans.

Among these civilisations, Istanbul is the capital city of Rome, Byzantium and Ottoman Empires. The fascinating historical riches and cultural diversity of this city connecting Asian and European continents made her European cultural capital.

As stated above, extraordinary attractiveness of Istanbul has caused her to face with intense spatial problems.

Therefore it has been failed both in the development and application of urban plans in Istanbul. In order to stop the process damaging and destroying forests, plant cover, green areas, necessary and effective measures on legal, technical and administrative issues could not have been taken.

As the first measure of technical matters, an integrated system consisting of proprietorship, cadastre, and land development planning should be urgently established. In the Metropolitan Municipalities Law constituted in 2005, the metropolitan municipalities were for the first time tasked with the establishment of “Urban Information Systems”. Metropolitan Municipalities such an obligation now and this mission should be accomplished in Istanbul as soon as possible. First of all, surveying related technologies such as GPS, photogrammetry and remote sensing, 3D laser scanning should be employed more widely. By the extensive application of these technologies, it would be easy to make control of land management. Through the periodic monitoring using these technologies, ‘gecekodu’ and buildings erected contrary to the building code could be determined. When the photogrammetric and remote sensing data is used as the basis for the analysis phases of land development planning, the problems would be solved in a considerably shorter time. By all means, building ‘gecekodu’ and unauthorised buildings are not the issues that can never be overcome. Nonetheless these problems should be contended with patiently and systematically. Planning efforts in Istanbul city should be considered together with spatial dimensions of economic-ecologic conflict that is an output of mankind-nature conflict (IBB 2006). Transportation, infrastructure, natural structures and social life functions should be planned with environmental and sustainable urbanisation strategy.

To be one of the most modern cities of 21st century, Istanbul requires an applicable “Environmental Order Plan”. In addition, the present structure should be converted to be liveable spaces through urban regeneration projects.

There have been intense studies and great efforts to transform Istanbul into a cultural, historical, congress and tourism centre. These activities grew after the HABITAT II Summit held in Istanbul in 1996. Istanbul’s valuable cultural heritage with extraordinary diversity and its settlement system need successful projects, which are carried out in a determined way with sufficient financial funds, on the following issues - renewal and improvement through urban regeneration

- restoration of historical structures
- administration of the city

It is a fact that every country would set up its own model regarding its socio-economic conditions and legislative and administrative structure. However the effect of international experiences cannot be neglected through the creation this model. The statements over land management made by United Nations' European Economic Commission are guiding also Turkey as every country in the world. (UN 1996). Recommendation of information systems for the solution of problems in the cities is appropriate. By the comprehensive changes in the Law of Metropolitan Municipalities in 2005, establishment of "Urban Information Systems" was defined as being stated as one of the fundamental missions of municipalities. This is an output of international experiences and information exchange. Dialogues and cooperation between countries throws a light to the future more hopefully than ever.

REFERENCES

- BMBF, Auf dem Weg zur Stadt 2030 Herausgeber, Bundesministerium für Bildung und Forschung (BMBF), September 2003, 35 s.
- DİE, 2003, 2000 Genel Nüfus Sayımı, Nüfusun Sosyal ve Ekonomik Nitelikleri, Başbakanlık Devlet İstatistik Enstitüsü (DİE) Yayın No: 2759, Mart 2003, Ankara, 305s.
- European Commission, European Spatial Development Perspective, Towards Balanced and Sustainable Development of the Territory of the EU, 1999.
- İBB, 2003, İstanbul İçin Deprem Master Plan, İstanbul Büyükşehir Belediyesi (İBB) Planlama ve İmar Dairesi Zemin ve Deprem İnceleme Müdürlüğü, 7 Temmuz 2003, ix+1334.
- İBB, 2006, İstanbul Çevre Düzeni Planı Özet Raporu, İstanbul Büyükşehir Belediye (İBB) Başkanlığı, Temmuz 2006, 154s.
- İTO, İstanbul'da Kaçak Yapılaşmanın Nedenleri, İstanbul Ticaret Odası (İTO) Yayını, Kasım 2001, 154+75s.
- Keleş, R., 100 Soruda Türkiye'de Şehirleşme, Konut ve Gecekondu, Genişletilmiş 2. Baskı, Gerçek Yayınevi, İstanbul, 1978, 238s.
- Keleş, R., Kentleşme Politikası (3. Baskı), İmge Kitabevi, Ankara, 1996, 510s.
- KESKİN, Devrim-SÜRAT, Öykü-ÖZGE, Yıldırım, 2003, Londra'nın Sürdürülebilir Kentsel Yenileşme Deneyiminden, Türkiye ve İstanbul Özelinde Yenileşme Çalışmalarında Nasıl Faydalanılabilir? Kentsel Dönüşüm Sempozyumu (11-13 Haziran 2003), TMMOB Şehir Plancıları Odası İstanbul Şubesi Yayını, ISBN: 975-395-602-9, İstanbul, s: 398-413.
- Kongar, E., 21. Yüzyılda Türkiye (2000'li Yıllarda Türkiye'nin Toplumsal Yapısı), Remzi Kitabevi, 1998, 725s.
- MEERHEIM, Bodo, Stadtumbau als kommunalpolitisches Handlungsfeld - Ansatzpunkte, Perspektiven und Probleme, Stellungnahmen der Fraktionsvorsitzenden1) des Stadtrates der Stadt Halle (Saale), <http://www.isw-online.org/iswdb/einartikel.php?id=289>, 10 March 2007.
- Tekeli, İ., Türkiye'de Kentleşme Yazıları, Turhan Kitabevi Yayınları, Ankara, 1982, 345s.
- TOKİ, Birleşmiş Milletler Habitat II Türkiye Ulusal Rapor ve Eylem Planı, Başbakanlık Toplu Konut İdaresi (TOKİ) Yayını, Haziran 1996, İstanbul, 1996.
- United Nations (1999), Land Administration Guidelines with the Special Reference to Countries in Transition, Economic Commission For Europe, New York and Geneva; <http://www.sigov.si/mola/preview/html>.
- Yılmaz, Mustafa., İmar Yaptırımları ve Yargısal Korunma, Seçkin Yayıncılık, Ankara, 2002, 235s.

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