Legalizing and upgrading illegal settlements in Turkey

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ABSTRACT

The rapid urbanization experienced during Turkey's industrialization has led to the development of gecekondus 1 surrounding the cities. Various Governments have developed two different approaches to solving the issue since the 1950s. The main principle of the first approach was demolishing gecekondus, but it failed due to political, social and economic reasons. Therefore, the second approach has been adopted, which relies on legalizing them. This approach has also been unsuccessful because gecekondus have begun to be regarded as an enrichment tool by squatters. 2 Consequently, the Turkish Housing Development Administration developed a new model in 2003 that aimed to upgrade illegal settlements through demolishing existing slums 3 and gecekondus and constructing new residential units in the same or different area. The model provides housing units to slum owners as compensation for their slums while giving an opportunity to the squatters and low-income people living outside of the upgrading area to buy a housing unit with affordable long-term payments. Thus, it prevents the construction of new gecekondus, as an enrichment tool by not sharing annuities of urbanization with squatters.

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Introduction

The migration from rural to urban areas experienced especially in the industrialization period has led to rapid urbanization and the construction of illegal settlements in many countries (Choguill, 2007; Keleş, 2006; Majale, 2008; Takeuchi, Cropper, & Bento, 2008; Viratkapı & Perera, 2006; Werlin, 1999). These settlements are usually over-crowded, unsafe, temporary, unhygienic, probably illegal, and mostly located in the suburban areas of cities. The main causes of their constructions are government inefficiencies and lack of effective policies that supply adequate housing for low-income people (Aydemir, 1999; Davis, 2007; De Soto, 2000; Otiso, 2003; Reader, 2004). As of 2007 more than half of the world's population lives in cities, and one out of three individuals among them lives in inadequate housing conditions (Martinez, Mboup, Sliuzas, & Stein, 2008; Nijman, 2008; UN-HABITAT, 2006). Former UN Secretary General Kofi Annan stated that without concerted action on the part of municipal authorities, national governments, civil society actors and the international community, the number of these individuals worldwide is projected to rise over the next 30 years to about 2 billion (Nijman, 2008). In this context, the international community and national governments have been trying to improve the conditions of illegal settlements over the past several decades. The Millennium Development Goals, which were endorsed at the UN Millennium Summit in September 2000 by several countries, targets achieving a significant improvement in the lives of at least 100 million squatters by 2020 (UN, 2005). Upgrading squatter settlements that involves physical, social, economic, organizational and environmental improvements to existing gecekondus is widely seen as the most proactive and effective way to achieve this target (Majale, 2008).

As many other nations (Kaya & Zengel, 2005), Turkey has been implementing various initiatives in order to solve illegal settlement issues since the 1950s. This paper provides an overview of these initiatives, and it focuses on the model developed by the Turkish Housing Development Administration in recent years for upgrading squatter settlements. It concludes with an example of the model implementation carried out in an illegal settlement area of the Erzincan city.

Background of Turkish illegal settlements

Turkey experienced a breaking point in urbanization in the 1950s. The urbanization rate was around 17% from the foundation of the Republic (1923) until the early 1950s, and it increased up to 25%, 45% and 60% in 1960, 1980 and 2000, respectively (Table 1) (Keleş, 2006).
The country ranked third among countries with the highest urbanization rates in the world between the years 1980–2000 based on World Bank data (TOKI, 2008a). One of the main causes of Turkey's rapid urbanization was the rural to urban migration experienced especially in the industrialization period. The primary purposes of the immigrants, who generally have economic difficulties and low educational levels, have been to get shelter and a job to make a living. On the other hand, the central and local authorities had failed to supply affordable plots and/or housing units for the immigrants. In addition to inadequacies in production of urban lots, rapid urbanization, population increase, economic inadequacies, legal gaps, and planning issues resulted with squatter settlements (Table 1) and spontaneous urbanization (Bayraktar, 2008; Uzun & Çete, 2004).

Gecekondu is a popular term that means ‘landed overnight’ in Turkish and describes illegal housing projects especially constructed in a ‘de facto’ and ‘instinctive’ planning manner. The gecekondu was then turned into ‘squatter towns’ surrounding cities over time. Some of these squatter towns were built on the protected, agricultural, forest, water basin, landslide and historical areas (TOKI, 2008b). Therefore, the problem had social, economic and political dimensions in addition to the physical dimension, and the government considered the need to develop new solutions in order to upgrade ‘squatter towns’ and to prevent construction of new ones (Uzun & Çete, 2005).

Legalization of illegal settlements

Similar to worldwide initiatives (Takeuchi et al., 2008), Turkey has been trying to solve the squatter settlement issue by implementing various approaches since 1949. In this framework, the Demolition of Illegally Built Structures Law No. 5431 and the Gecekondu Law No. 775, enacted in 1949 and 1966, respectively, ruled to demolish slums and gecekondu and to prevent the construction of new ones. However, these laws had not been implemented adequately over the years due to social, economic and political reasons, which resulted in an increase in squatter settlements (Köktürk, 2003; Uzun & Colak, 2007). Therefore, the Turkish government considered the legalization of slum and squatter settlements as a solution to the issue. It was believed that most squatters would gradually improve their living conditions when they have a secure tenure. Additionally, local taxes would be collected by registering the occupied lands, boundary conflicts could be eliminated, and housing sector would be encouraged. It was also considered that, while migration from rural to urban areas led to a high demand for affordable housing in cities, inefficiencies of the local authorities resulted in the adoption of illegal solutions by immigrants, and slums and gecekondu met their housing needs. In light of these issues, the Turkish political authority put the Amnesty Law No. 2805 and 2981 in 1983 and 1984, respectively, into force to legalize slum and squatter settlements (Köktürk, 2003; Uzun & Çete, 2004).

Legalization procedure

The Amnesty Law No. 2981 has been applied to all slums and gecekondu constructed on public lands before the law was introduced. If a squatter, his/her wife/husband and their child have real estate in the same municipality, the law is not applied for that person. An application is made to the relevant municipality or governorship and a certified private surveyor by the owners, constructors or building managers (Fig. 1). Certified private surveyors evaluate and prepare required documentation for slums/gecekondu, and they send them to the relevant institutions, including the municipality, Treasury, province and foundations administration that are responsible for finalizing the procedures in the next three months. The municipality or governorship determines the owners who did not apply for the legalization.

The legalization procedure is carried out using three different methods based on the status of landownership: (a) slums; (b) gecekondu constructed on government-owned lands; and (c) gecekondu constructed on the lands owned by third parties (Fig. 1). There are two choices to apply for slums depending on the preservation or improvement of them. The first one is that the slum is preserved as is, and a construction permit or certificate of occupancy is given upon payment of required duties along with the application. The construction permit or certificate of occupancy is given after improvement of the slum in the second choice. The same procedure is applied to the gecekondu constructed on government-owned land with the exception of paying the value of the land by squatters to the relevant institution. The payment is made in 4 years with 12 equal installments, and this is only valid if the occupied land is less than 400 m² for each gecekondu. When the gecekondu are constructed on private land, the procedure is carried out depending on the agreement or dispute between the landowner and the squatter. In the case of an agreement, an application to the municipality or governorship is made by both parties in order to determine the land value and transfer the ownership. If the landowner and the squatter dispute the land value, it is determined by the courts and the ownership is transferred.

Following the determination of rights, title allocation documents are given to the squatters. These documents are not legally binding titles, but they provide assurance for future ones. They are not accepted as ownership documents and are used only as a sign of land tenure. Land registration is a requirement for transforming title allocation documents to legally binding (secure) titles. Preparing improvement plans and forming development parcels are prerequisites before this can happen. Therefore, improvement plans defining building permits of slum areas are prepared by the relevant municipality. Requirements of the Building Code No. 3194 and dated 1985 are not taken into consideration in preparing the improvement plans, and the maximum building height cannot exceed 12.5 m (four floors) in the plan. Land readjustment projects (whereby a government agency consolidates a selected group of land parcels, re-designs them with streets, open-spaces and serviced building plots, and then distributes the remaining plots back to the landowners as development parcels according to parcel sizes and contribution rate) are applied in accordance with the Amnesty Law (Yomralioglu, 1993). The final projects are then forwarded to the relevant cadastre and land registration offices for technical control and registration. Finally, title allocation documents are changed to secure titles and given to the slum owners and squatters (Fig. 1).

Results of the legalization

The Amnesty Laws dating from 1983 to 1984, which were enacted to provide legalization of illegal settlements, have not been a solution for the issue. Legalization has led to some problems over time in

Table 1

<table>
<thead>
<tr>
<th>Years</th>
<th>Urbanization rate (%)</th>
<th># of squats</th>
</tr>
</thead>
<tbody>
<tr>
<td>1955</td>
<td>22</td>
<td>50,000</td>
</tr>
<tr>
<td>1960</td>
<td>25</td>
<td>240,000</td>
</tr>
<tr>
<td>1965</td>
<td>30</td>
<td>430,000</td>
</tr>
<tr>
<td>1970</td>
<td>33</td>
<td>600,000</td>
</tr>
<tr>
<td>1980</td>
<td>45</td>
<td>1,150,000</td>
</tr>
<tr>
<td>1990</td>
<td>51</td>
<td>1,750,000</td>
</tr>
<tr>
<td>1995</td>
<td>55</td>
<td>2,000,000</td>
</tr>
<tr>
<td>2002</td>
<td>62</td>
<td>2,200,000</td>
</tr>
</tbody>
</table>
spite of its several advantages. It became a way of preserving slums/gecekondus as is, and of legalizing occupations that lead to generations of legal but unhealthy settlements. Although the legalized areas were in the outskirts of cities at the beginning, they became part of city centers as a result of urban growth (Kaya & Zengel, 2005). Gecekondu transformations were then carried out sporadically in such areas in the partnership of squatters and developers. Many high-rise apartments, shopping centers, offices and business spaces were constructed on the legalized real estate. Owners of these lands have improved their economic situations by this way in a short period of time (Baslevent & Dayioglu, 2005). In other words, the annuities produced as a result of legalization (Mukhija, 2002) were shared between landowners and developers because development rights (or construction rights) of the legalized areas were also completely transferred to the landowners. This process has shown that gecekondus have been regarded as an enrichment tool for those who occupy public lands. Experience reveals that amnesty laws do not prevent the generation of illegal settlements; instead they encourage people to construct new ones with an expectation of upcoming amnesty laws (Köktürk, 2003).

The new model of solving the illegal settlement issue

The process of solving the illegal settlement issue in Turkey, which began with the laws enforcing demolition of the illegally built structures and which continued with the Amnesty Laws enacted after 1983
to legalize them, as previously discussed, has failed. Consequently, these settlements have been spread over more than 40 cities, and therefore a new approach needs to be considered to prevent the use of gecekondu as a tool to earn money by the squatters via implementations of transformation projects. The primary purposes of the new approach would be upgrading the unplanned and unhealthy illegal settlements, and thus providing economic, social and cultural improvements to urban areas. The approach would also protect squatters whose intentions are just to get shelter. In this framework, a new model for solving the illegal settlement issue was developed by the Turkish Housing Development Administration (Topluk Konut İdaresi Başkanlığı, or TOKİ) in 2003.

The TOKİ model of illegal settlement upgrading

TOKİ is a not-for-profit public sector entity that is granted a broad range of powers and duties in the housing sector and urban upgrading. The administration produces affordable social houses for low and middle income people and implements illegal settlement upgrading projects throughout Turkey. TOKİ is affiliated with the Turkish Prime Ministry and headquartered in Ankara, the capital, and it cannot be liquidated or declared bankrupt. Its budget is designated in cooperation with the Prime Ministry and the Ministry of Finance. Funding received from the government represents a low proportion of TOKİ’s income sources. Most of its nearly 160 million m² of land (as of 2007) has been transferred from the Treasury and from other public institutions, while the rest has been purchased at a preferential price or expropriated (Soldi, Amenta, & Lemay, 2008). One of the most important income sources of the administration is the sale and rent of houses, offices and lands. In addition, repayment of funds given to individuals and public–private organizations, revenue-sharing projects, international credits, interest income, payments and duties, and donations and aid given to the TOKİ are among the income resources.

The illegal settlement upgrading model of TOKİ is generally implemented to upgrade unplanned and problematic areas, occupied public lands, regions having disaster risks, and cultural and historic areas surrounded by illegal settlements. The project areas are generally located around the city centers where the land is particularly valuable. This enables TOKİ and local authorities to accomplish upgrading projects on these areas without having financial difficulties because the constructed houses remaining after allocation to the right holders are sold in a good price. There are two alternative approaches to implementing the model: (a) demolishing the illegal settlements, constructing new houses in the same area, and allocating them to the right holders, and (b) constructing new houses in a different area to transfer the right holders living in the upgrading area (Bayraktar, 2008).

In the both models, local authorities determine the illegal settlement area where the upgrading project is going to be implemented, and they place an application to TOKİ (Fig. 2). A protocol between TOKİ and the local authority is signed to carry out the project if the proposed area is appropriate for urban upgrading. TOKİ carries out feasibility analysis and design of the project, and then a commission is formed between TOKİ and the local authority to determine the right holders and the real estate values. The slum owners proving their ownerships in the project area earn the rights of having house/houses based on the value of their real estate and costs of the project. The slum owners signs contracts with TOKİ, and declare that they pay the difference between the values of the newly constructed house and the slum in a 15 year-period (Deliktas, 2007). If TOKİ cannot reach to an agreement with a slum owner, the corresponding real estate is expropriated. The squatters can only have a house with the requirement of evacuating the occupied land and making the house payment in affordable installments. The new buildings are constructed by a private contractor chosen through a tender process of TOKİ.

In the first model, construction of housing units for slum owners and squatters is performed on the same slum area following a land purification process by TOKİ. The slum owners are moved to temporary houses during the upgrading process, and their rents are paid by the local authority. Following completion of the construction, new housing units are given to the entitled right holders in the project area. In the second model, modern housing units for slum owners and squatters are constructed by TOKİ on a vacant area, and entitled right holders move into them. The illegal settlement area is purified after the evacuation process by the local authority and subsequently transferred to TOKİ (Deliktas, 2007).

With the support of the central government and the collaboration of local authorities, TOKİ has prepared an illegal settlement upgrading program. Protocols for a total of 156,700 housing units were signed with 141 municipalities, and applications have been initiated in 75 regions in 35,600 housing units as of 2008 (Bayraktar, 2008).

An implementation example: the upgrading project of Erzincan-Çarşı Quarter

The Upgrading Project of Erzincan-Çarşı Quarter, one of the first urban upgrading projects of TOKİ initiated in 2003, received “the good practice award” of the United Nations Human Settlements Programme (UN-HABITAT) and the Municipality of Dubai in 2008 (Fig. 3). The population of Erzincan Province in the year 2000 was 316,841 people based on the State Institute of Statistics data. The project area that consists of slums and gecekondu is unplanned and lacks infrastructure, and it is at risk of having an earthquake. The area of Çarşı Quarter is 170,304 m². Of this area, approximately 75,000 m² were owned by individuals, and the rest belonged to the Municipality. A part of the project area was developed as a temporary settlement region after the earthquake in 1939. However, the buildings in the region were not demolished after fulfilling their function. Rehabilitation of the region, which grew in an unplanned manner, became impossible to solve using the local facilities, and necessary support was not obtained from the central government. Following the construction of modern building in other parts of the city after the 1970s, most of the region’s residents moved towards these newly established quarters. The project area gradually turned
into an abandoned quarter over the years. The municipality considered reconstructing the project area following the earthquake in 1992, but several initiatives have failed until 2003 (TOK, 2008a).

The Upgrading Project of Erzincan-Çarşı Quarter was later initiated by signing a protocol between TOKI and Erzincan Municipality in late 2003 to upgrade the area that was not conforming to the development and the identity of the city. The right holders in the area were determined during an analysis phase of the project. Surveys of the economic and social standings of the people living in the area were carried out, and planning proposals for the area were evaluated to provide the integrity of the city. Some slums that were owned by mostly elderly, destitute widows and orphans were expropriated based on the right holders’ consent due to the difficulty they would experience in acquiring a house in another location. TOKI constructed 153 housing units, each of which has an area of 62 m², for these right holders on its land in the Mengiçeli Location. The right holders moved to these social houses, and their evacuated slums were then demolished. The Municipality transferred its 41,875 m² of land in the Çarşı region to TOKI for its expenditures in the Mengiçeli social housing project. TOKI provided a 10-year loan of TL 500,000 (approximately US$300,000) to the Erzincan Municipality for project expenses, and it also expropriated 75,000 m² of additional land owned by individuals in the same region. Construction of social housing units in the area was initiated by TOKI, and 880 housing units, of which 512 are 125 m² and 368 are 100 m², was completed as of 2006, and 720 of them were sold to individuals. In addition, a primary school, a commercial center, and social facilities were also constructed by TOKI based on the requirements. Project investment amounted to about TL 50,000,000 (approximately US$30,000,000) as of 2006 (TOKI, 2008a).

With the Upgrading Project of Erzincan-Çarşı Quarter, the illegal settlement area has been transformed into a modern settlement and recreation area, and the citizens living in these unhealthy settlements have been ensured an opportunity of living in a modern and planned settlement. The positive results obtained from the implemented project have also provided an example for other cities, and similar projects were commenced throughout Turkey.

Conclusions

Illegal settlements and their incongruity with city centers have been important issues in Turkey especially since the 1950s. Resolutions for the issue have been developed based on various laws. The Demolition of the Illegally Built Structures, and the Gecekondu laws enacted in 1949 and 1966, respectively, ordered both the demolition of the existing illegal buildings and preventing the construction of new ones. However, these laws had not been implemented for political, social and economic reasons. Therefore, the Amnesty Laws were enacted in 1983 and 1984 to legalize and upgrade the unplanned and unhealthy illegal settlements, and thus to provide
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References

TOKİ. (2008a). Erzincan urban renewal (Gecekondu transformation) project of Turkey: application document to the best practice Dubai award. Ankara, Turkey: Republic of Turkey Prime Ministry Housing Development Administration (TOKİ). 