EFFORTS TO PROMOTE CHANGE

Reflections on achieving change

Since the submission of the Phase Two report in November 2002, the focus of our concern was on the realisation of certain changes in the regulatory mechanism. Unfortunately, the project team was unable to convince the Ministry's bureaucrats and several members of the Parliamentary Committee in charge of planning, construction, urban development and public works, of in the need for change in planning standards, regulations, and procedures. Even the Turkish Union of Municipalities, as the sole representative of local authorities did not seem interested in change whatsoever despite the fact that the proposed changes would create favorable conditions for their political interests.

The power to initiate change lies with the Parliament if its nature requires the enactment of legislation, though technical works have to be developed by the Ministry of Public Works and Settlement. The Ministry is also the key actor to inform the members of Parliament about the need for change and to initiate them. The disinterest of the Turkish Union of Municipalities in the matter comes from the belief that local authorities neither have the power nor a duty to change the laws or by-laws relating to the regulatory guidelines. Although this is not incorrect, it does not exclude the possibility that such a powerful NGO (it has been transformed recently to a public corporation having its own public legal personality), comprising the great majority of the municipalities in Turkey, could exert serious pressure upon policy-makers.

A number of proposals for change have been made on the basis of the research findings. These were concerned with facilitating certain procedural steps and relaxing a number of restrictions, such as:

- Facilitatiing application procedures by amalgamating applications within a single municipal department
- Simplifying procedures for obtaining outline and detailed planning permission for residential plots
- Speeding up the payment of deposit,
- Speeding up the issuance of allotment letters,
- Speeding up the approval of surveyed plans,
- Relaxing height and plot uses
- Authorising local municipalities to be responsible for determining and revising planning regulations concerning the ratios of floor space area and building setbacks according to local conditions.

In attempting to promote changes, meetings were held with various key stakeholders in central and local government agencies and relevant civil society organisations concerning these recommendations. However, despite intensive efforts, no significant change was possible within the time frame of the project.

Why did these efforts fail? There are several reasons. The first is, of course, the traditional lethargy of the bureaucratic institutions. Especially in a period of rapid political mobilisation, during and after the national elections, bureaucrats did not want to endanger their posts by supporting proposals that might not please their bosses. In the theory of administrative sciences it is usually assumed that it is the Minister who sets the policy and the agency that carries it out. But in reality, civil servants exert power without being subject to external accountability, and they can easily escape both political and public scrutiny. This does not mean that they should not refrain from behaving cautiously.

Secondly, proposals for change did not seem acceptable to some of the bureaucrats from a technical point of view. Both the Ministry and the members of the Chambers of Architects and Planners expressed a sort of mistrust in the technical reasons on which we had originally based our proposals. A third and related reason was concerned with the answer to be given to the question why to regulate. Although globalisation requires increasing deregulation, an increasing number of civil servants at central and local levels believe that standards, regulations and procedures safeguard the public interest, and they are still needed. No other considerations could override the protection of public health, safety, public order and interest. In countries like Turkey, where earthquakes, fires, flooding, land sliding, etc., are not infrequent, it would not be logical to relax the rules governing planning, building and development.

In this respect, it is important to make a distinction between two types of regulations and make recommendations for them accordingly. The first is the regulation for building and the second relates to regulations for planning. There are serious reasons to set and implement strict building regulations and standards in order to avoid hazards to th elife and property of the city residents. Seismic characteristics throughout the greater part of the country make this imperative. From this standpoint, it seems realistic that strict building regulations be applied not just to private buildings, but also to those in the publoic sector. As a result, existing provisions of the City Planning Law exempting public buildings from mouch of the building regulations and standards is now justifiably under reconsideration. According to the proposed new law, being prepared by the Ministry of Reconstruction and Settlement, public buildings will also be subject to more strict building regulation. On the other hand, planning regulations may be rendered more flexible to allow the poor not to be constrained by unrealistically high provisions.

A fourth and a more common reason for reluctance on the part of the bureaucratic staff was the perceived relative insignificance of the proposed changes in enabling the poor to get access to regular land and housing markets. Instead, they seemed to believe that such macro-economic and social factors as the provision of cheap land, housing credit with easy terms, and the measures to redress, in the long run, the pattern of uneven income distribution in the society were more important than the minor changes in planning standards and planning regulations.

Another reason for the failure in getting changes implemented is the relative instability in both politics and bureaucracy that is often observed in many developing countries. Frequent changes taking place in both fields do not allow the effective implementation of more stable policies. For example, since the beginning of the project in 1999, Turkey has had three different governments, two of them being coalitions of political parties with different ideologies.

Perhaps a final reason particular to Turkey which impeded success in achieving the objectives of the study was the recent preoccupation with meeting the requirements of the full membership of the European Union. Amendments in the Constitution, enactment of new legislation, the adaptation of the existing legislation to the European norms, together with intensive relationships with the International Monetary Fund, apart from the strategic decisions concerning neighbouring Iraq, have been the top priority issues facing the government and the Parliament. It can be easily accepted that within such a complicated web of problems, no satisfactory contacts between the bureaucrats and politicians could be established.

Recent legislative moves concerning local government reform and squatter settlements

Following the submission of the Phase Two Report, a new Law Project on Local Government Reform was introduced into the Parliament. If enacted, it may increase the financial resources of the municipalities, increase their competence; and the transfer of the government land within the city boundaries may be realised. It is hoped that this project, if implemented, will enable local authorities to act more or less independently of the central government, and would facilitate the relaxation of the regulatory guidelines. The proposed law is still in the Parliament's concerned committees, waiting for the completion of the debates.

While waiting for the enactment of the Reform Law, a new law was put into force, which aimed to pardon the already built-up squatter houses, by legalising their status and increasing the financial resources of the government (Law No: 4916, Official Gazette: 19 July 2003, No: 25173). According to the provisions of this law, 10 percent of the revenues to be received as a result of the sale of the lands will be transferred to the Gecekondu Fund established by the 1966 Gecekondu Law, to be used for the transformation and upgrading of squatter settlements, including the demolition of the uninhabitable gecekondu buildings. Out of the remaining part of the revenue expected from this source, the concerned municipality will receive 25 percent. Metropolitan municipalities and village administrations will receive 15 percent each. Another requirement of the Law is that 20 percent of the land to be freed by former gecekondus is to be used for providing health, education and other public services in illegally formed settlements.

The law relates to the upgrading of existing gecekondu settlements and does not possess provisions relating to new developments. This means that standards and regulations as enshrined in the City Development Law of 1985 (No: 3194) will continue to be implemented. It seems clear that primary concern of the legislator is to improve the rules for upgrading in illegal settlements rather than for new developments. Another indication of such an approach is that a new law project submitted recently to the Parliament (March 2004), called the Law Project on Urban Transformation, aims to realise such schemes for urban transformation, in accordance with planning principles, social, economic, cultural, geographical, geological, environmental features of the settlement, taking into consideration disaster threats and risks such as flood, earthquake, landsliding, and geological and geophysical features of the sites. The same law project also requires that in the preparation of urban transformation plans particular attention be paid to "contemporary urban standards, and social and technical infrastructure' without defining "contemporary standards'. It can be assumed that they are planning standards transferred from developed western countries.

Recommendations for action

The findings of our research revealed that in general the role played by planning standards, planning regulations and administrative procedures in discouraging people to use regular channels for housing is significant, but there are other factors of a more general nature that tend to make the solution of the problem more difficult. In this broader context, urban land policies followed by governments, terms of housing credits affected by general economic conditions, financial and other inadequacies of the municipalities and the impact of globalisation upon the means of the poor to get access to affordable housing have to be examined with a view to reduce their negative impact. The removal in particular of all kinds of subsidy as required by world-wide liberalisation and privatisation affect the homeless or the poor in a negative way because the expanding new world view does not, in principle, allow for support of the poor through subsidies.

The Turkey case study has demonstrated that cumbersome and mostly unnecessary administrative procedures take much time and constitute an important cost increase.

It is clear that relaxation may be both feasible and useful in some planning regulations, standards and administratrive procedures, but these must have certain limits. In case those critical limits are exceeded, as in the case of procedures concerning public hygiene, the society may encounter undesirable risks. Another consideration to be taken into account is the proposed law in parliament that focuses on the safety of construction in disaster prone areas of the country that constitutes approximately ninety percent of the total territory. One can assume that the introduction of more strict rules, standards and procedures in planning and development would create counter effects on the regulatory framework for affordable housing. The regulatory framework should therefore be re-audited and re-evaluated in the next few years in order for the impacts of these necessary changes to be understood. Considerations pertaining to disaster risks are easily accepted by decision-makers for understandable reasons. It is therefore both necessary and possible to re-audit and re-evaluate the regulatory frameworks in order for the impacts of the necessary changes to be understood.

When compared with planning standards and planning regulations, administrative procedures seem to be most suitable for relaxation in the short term. It is also important to distinguish between the regulations and standards that are required by law and other relevant legislation and those introduced by the discretion of local decision-makers. It should be remembered that realising even simple and small-scale amendments in the laws in multi-party parliamentary democracies might be an extremely difficult task. For example, most of the formalities required for obtaining various certificates from municipalities may be either simplified or removed altogether. Suggestions for change may be grouped into two different categories: The first is the changes that can be realised only by the enactment of a law by the legislative assembly. These kinds of changes may be desirable but are not realistic in the short term. The second category of recommendations are those which are both desirable and realistic in the sense that they can be achieved through the decions of the executive and are amenable to early resolution.

The following recommendations have been proposed for initial changes to the regulatory framework:

- Delegating of responsibility for amending the regulatory framework to municipalities. This was preoposed as a medium term recommedation, but is already under active consideration by the government and will therefore be realised in the short term.
- Reducing the number of steps required in applying for land development permission, especially the procedures for approval of survey plans, the issuance of allotment letters and payment of deposits.
- Relaxing or removing the requirements on building setbacks, floor area ratios.

In the longer term, it was recommended that the following changes be made:

- Changing the attitudes of key stakeholders, including senior administrators and professionals to reduce barriers between departments which presently operate in an independent and unco-ordinated manner.
- Modifying the legal framework within which urban development is managed and administered.
- Preparation for negotiations with the European Commission regarding Turkey's entry into the European Community require a number of adjustments in the legal and administratrive structure ot the civil service. This requires more flexibility in matters relating to investment and community development.
- Strengthen proposals for the provision of more residential land suitable for access and development by low-income groups.

It is also assumed that the proposed law on municipal reform that may produce some beneficial results and new opportunities for low-cost housing will be realised in the medium-term. This proposed law has provisions concerning the transfer of the lands owned by the Treasury to municipalities in order to facilitate the implementation of low-cost housing for the poor. It also aimed to increase the revenues of local authorities to deal better with local public services. The decision to hold national elections in November 2002 did not permit the realisation of these goals. Efforts towards its enactment must be intensified and accelerated by the new Parliament.

On the other hand, the long experience in Turkey of policies towards gecekondu settlements may serve as a model, as suggested during the local workshop. The Gecekondu Law of 1966 is still in force. It established funds to provide financial support to the poor, and at the same time attempted to legalise the existing squatter dwellings by allowing municipalities to provide public services and by forcing the occupants to pay various municipal and national taxes, fees and other levies. This legislation reflects the idea of considerable relaxation of numerous planning standards and regulations, while it does not ease administrative procedures. In order to implement the Gecekondu Law more easily, regulatory reform would be helpful. Gecekondu builders are regarded at present merely as law breakers. Potential reform should be based on a new understanding regarding upgrading, but also address the need for new residential land to make future gecekondu less necessary. Options for achieving this objective include public-private partnerships, stgrengthening the Mass Housing Administration and providing more intensified technical and financial assistance to the settlers and privatre developers. This would require an administrative reorganisation at district level, strengthening and decentralisation of the municipal staff into smaller parts of the city. No such mechanisms seem to be introduced by the above-mentioned laws.

A final point is the need to revise environmental regulations that are presently implemented in squatter settlements. New concerns for environment and sustainable development have to be reflected in relevant legislation as a requirement of the European Union for accession to full membership. It is likely that a revision of the relevant rules and regulations in this respect would create counter-productive consequences for the aspirations of the poor to get access to legal housing accommodation at an affordable cost.

Prospects for the near future

In Ankara, the substantial increase in formal sector housing construction during the late 1990s and early 2000s has helped reduce the need for gecekondus and other unauthorised land developments. Whilst the cost of such housing remains high relative to incomes, this has nevertheless reduced the overall proprtion of informal development. This progress does not obviate the need, however, to review other constraints to improving access to formal housing, of which the regulatory framework is one.

At the time of writing, Turkey was preparing for the local elections that took place in March 2004. Small and large, all municipalities were focusing their attention on the elections. Under these conditions, it was not realistic to expect local officials as well as policy-makers at the centre to occupy themselves with such technical matters as the details of the regulatory framework for affordable housing. Instead, a strategy was adopted to focus on training at least a part of the technical staff of the Ministry of Public Works and Settlement, and of the municipalities of İstanbul, Ankara and İzmir, which are in charge of urban development. Such training courses are being organised by the Turkish Union of Municipalities, right after the local elections, in cooperation with the Ministry of Public Works and Settlement, Ministry of the Interior, and the Public Administration Institute for Turkey and the Middle East and colleagues from various Turkish universities.

All participants in the project workshop expressed appreciation of the opportunity to discuss issues relating to the regulatory framework in an informal forum with reporesentatives from other stakeholder groups. Whilst the workshop did not conclude with a clear set of recommendations, it was nonetheless useful in providing a basis for common ground.

Apart from the local workshop, intensive interviews with the residents of illegally built dwellings in three different districts have been made. This confirmed other findings supporting the decentralisation of decision-making on planning regulations, standards and administrative procedures to local government and relaxing some of the planning regulations.

As already reported, the project team came up with three main conclusions:

1. The regulatory framework namely, planning regulations and standards did not play an important influence on access to legal and affordable shelter compared to issues of finance and land availability as was assumed at the beginning. Some other elements like the availability of urban land and financial issues were no less important than the strictness of the regulatory mechanism.
2. Administrative procedures, seemed to be a more serious obstacle or constraint and it was relatively easier to bring about changes in administrative procedures than to planning standards and planning regulations. The main disappointment is that although procedures may be easier to change, we were not able to achieve any progress on this front.
3. Computing the relative share of the various elements in the total cost was neither possible nor reliable simply because the low level of comparability of the figures provided by different parties.

Among the issues which will affect prospects for change in the short to medium term is the conservative attitude of many architects, planners, engineers and other professionals who are reluctant to see standards of development lowered, even if this enables poor people to conform and obtain legal housing. The greatest prospect for change therefore lies in simplifying procedures and allowing more control over development by local governments. Another consideration is the introduction of EU norms on spatial development and urban governance, towards which Turkey is moving steadily.

REFLECTIONS AND SUGGESTIONS FOR FUTURE RESEARCH

For the benefit of others considering research on this important subject, we offer below some final thoughts on what changes we would make if we were to repeat a similar study on regulatory frameworks. These include the following considerations:

1. To include more developers in the research. These are the people advising poor families on the ways in which a gecekondu can be built by escaping from being subject to existing regulations. They can be regarded as persons most knowledgeable about the details of every stage in the development and building process.
2. To expand the sample size and locations of informal settlements in different stages of their transformation process in order to increase the diversity of examples, comparability and statistical significance of the surveys.
3. To focus the quantitative surveys more on the key issues, rather than covering a wide range of social and economic aspects.
4. In completing the regulatory matrix, clarify the distinctions between regulations and standards. Whilst it is useful to distinguish between standards, regulations and procedures, it is more important to ensure that each aspect is included rather than worry too much about which heading they appear under.
5. Finally, in analysing the data collected, recourse to an historical approach, in addition to the analysis of the presently available materials, is important, since in countries such as Turkey, the phenomenon of illegal building started several decades ago, and there exists a long experience of policy formulation and implementation in this field.

BIBLIOGRAPHY

BALAMİR, Murat, "Legality and Legitimacy of Tenure in Turkey", Land Rites 10, 2001a

BALAMİR, Murat., "Recent Changes in Turkish Disasters Policy", in P.R.Kleindorfer and M.R.Sertel (eds.), Mitigation and Financing of Seismic Risks, Kluwer, 2001b, pp.207-234.

IŞıK, Oğuz.,PıNARCıOĞLU,Melih., Nöbetleşe Yoksulluk Gecekondulaşma ve Kent Yoksulları: Sultanbeyli Örneği (Poverty, Squatter Formation and the Urban Poor), İletişim yayınları, İstanbul, 2001.

KELEŞ, R (1992) 'Writing on cities and politics' Istanbul, International Union of Local Authorities, (in Turkish)

KELEŞ, R and PAYNE, G (1984) 'Turkey' in Wynn, M (ed) 'Planning and Urban Growth in Southern Europe' Mansell, London pp165-197

ŞENYAPıLı, Tansı. (1981), Gecekondu: Çevre İşçilerinin Mekânı, (The Squatter House: The House of Peripheral Workers), METU, Ankara,.

ŞENYAPıLı, Tansı. (1983), Ankara Kentinde Gecekondu Gelişimi (1923-1960) (Development of Squatting in Ankara), Kent-Koop, Ankara,

ŞENYAPıLı, Tansı. (1998), "Changing Relational Framework in Informal Sector", in Tuncer Bulutay (ed.), Informal Sector, (I), State Institute of Statistics Prime Ministry Republic of Turkey, pp87-123

State Planning Organisation, Gecekondu Survey, Ankara, 1992.

ANNEX: ADMINISTRATIVE PROCEDURES, FEES AND CHARGES

Table 4: Major charges to be paid throughout the development, planning and building process

1.Application sketch from directorate of cadastral (TL.)

1-1000 square mt	48.000.000
1001-3000 square mt.	67.200.000
3001-5000 square mt	138.000.000
5001-10.000 square mt	174.000.000
10.001-20.000 square mt	240.000.000

2.Extract of cadastral entry..... 10.000.000 TL

3.Red bench mark certificate..... 15.000.000 TL

4.Building bulk + bench mark For bench mark (TL.)

For one storey title deed	square mt. x 100.000	Up to 500 square metres	10.000.000
2 and 3 stories title deed	square mt. x 140.000	501- 1000 square metres	15.000.000
4 and 5 stories title deed	square mt. x 180.000	1001-2000 square metres	30.000.000
6 stories title deed	square mt. x 230.000	2001-5000 square metres	50.000.000
7 and 8 stories title deed	square mt. x 250.000	more than 5001 square metres	75.000.000
9 and more stories title deed	square mt. x 330.000		

5. Charge for building permit: In upgrading areas, buildings lower than three stories are exempt

Buildings higher than three stories pay 10.000.000 TL.

Construction charges for new buildings:

0-100 sq.mt.	200 TL x number of flats x space of flats
101-120	4.000 TL x number of flats x space of flats
121-150	10.000 TL x number of flats x space of flats
151-200	20.000 TL x number of flats x space of flats
201 and more	30.000 TL x number of flats x space of flats

In case of changes, new charges are computed, but an amount as big as the old charge is deducted.

6.Excavation charge: With shop .....900 x ground space sq.m Without shop.....600 x ground space sq.m

Building with basement.....ground space sq.m x (minus bench mark) x parts of foundation x 900 or 600 TL.

7.Car parking charge: It varies according to zones. The charges are set annually by the metropolitan municipality. For 2001,

for each car park: Minimum.....343.153.393 TL. Maximum.....3.301.109.619

8.Occupancy permit charge: 17.500.000 TL. per each flat

9.Roads. Road fee x plot frontage x width of the road:2 x 10.495.000 TL.

Table 5-a: The extent to which each item of regulations constitutes a constraint for accessing legal housing market

Administrative procedures and charges	Not a constraint	3.order	2.order	1.order
Use control				X
floor space ratios, density, rear, front and side yards			X	
Real estate tax	X			

Table 5-b: The extent to which each item of administrative procedures constitutes a restraint for accessing legal housing market

Charges	First subdivision charge	X			
	Subdivision and unification charge	X			
	Approval charge for plans and projects	X			
	Building construction charge	X			
	Ground works and soil charge		X*		
	Excavation charge		X*		
	Car park fee		X**		
	Occupancy permit charge	X			
	First bidding charge		X***		
	Sewerage charge		X***		
	Settlement charge				
	Mortgage credits interest rates and instalments				X
	Environmental impact assessment	X			
	Public health regulations	X			
	Earthquake insurance	X			

	Fire fighting charge	X			
	Regulations of the Law on the Protection of Natural and Historical Assests	X			

(*) Even in case where the excavated soil will be utilised by the developer, he has to pay this charge. Municipality designates a certain location for the excavated soil and charges approximately 2 billion TL. This increases the housing cost at least by 1 percent.

(**) Cooperatives allocate land for car parking voluntarily, in order to create an agreable and health environment.

(***) These charges should be received after the delivery of the dwellings. The municipality receives it in advance by forgetting that it is not a profit making institution.