

# **Tenure Security in Informal Settlements in Istanbul: Institutional Development and Legalisation**

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## *Abstract*

*This thesis takes its point of departure in the debate on how what constitutes tenure security for people in informal settlements. By tracing Turkey's socio-political and economic dynamics over time, this thesis assesses the key factors and the institutional structures of tenure and informal housing. With an institutional outlook it is argued that tenure security in informal housing is mostly dependent on the slow convergence of formal and informal institutions. With Istanbul as a case the legalisation process, in the form of large-scale urban transformation projects, and the institutional setup is analysed in depth. This thesis concludes that the institutionalisation of informality within formal institutions has created de facto tenure security, yet that legalisation attempts can lead to exclusion and latent forced evictions if not addressing fundamental power inequalities.*

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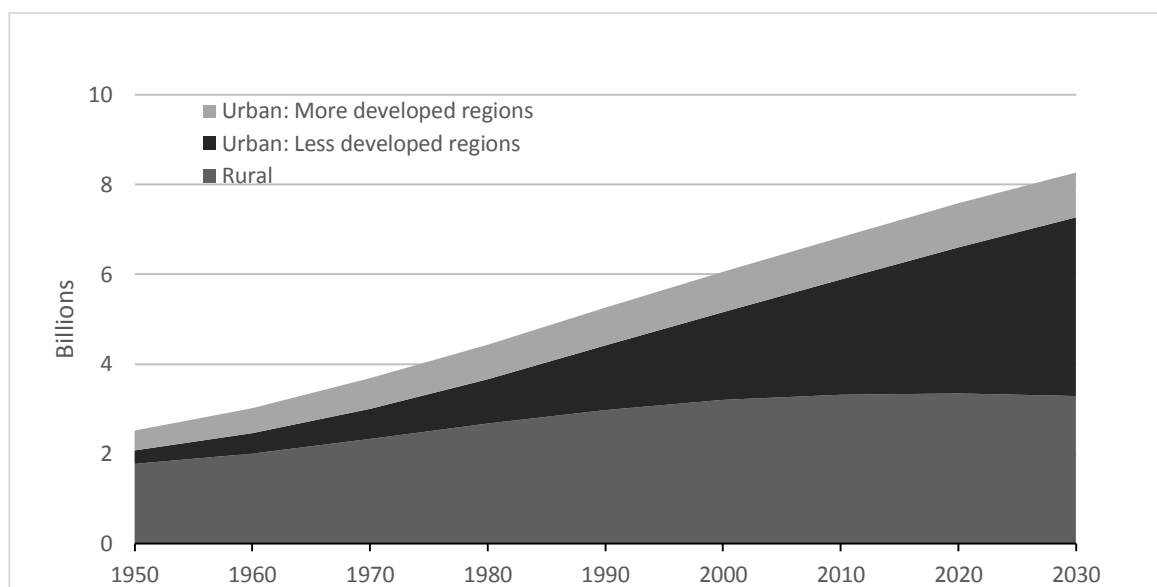
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## Chapter 1: Introduction

### The challenges of urbanisation in developing countries

The importance of the *urban* in developing thinking has come to the forefront of many international debates in recent years. In 2008, for the first time in history, over half of the world's population lived in urban areas and it is projected that by 2050 this number will reach 70 percent (UN Habitat 2009). The global population in 2011 was approximately 7 billion and is expected to increase to 9.3 billion by 2050<sup>1</sup> (UN 2012: 1). Nearly all of this growth, approximately 2.3 billion, is expected to take place in urban areas of developing countries (Ibid). Rural areas are expected to have reached its maximum population and is projected to shrink after 2020, as can be seen in figure 1 below.

Figure 1: World Population Growth



**Source:** Figure by author. Data from United Nations, *World Urbanization Prospects: The 2001 Revision* (2002): Tables A.3 and A.4

The world's urban population is today around 3.6 billion – more than the world's total population in 1950<sup>2</sup> - and is expected to increase to 6.3 billion in 2050 (Ibid). Population growth<sup>3</sup> is therefore becoming largely an urban phenomenon concentrated in the developing world (Satterthwaite 2007).

<sup>1</sup> The validity of long-term projections for city populations and for countries' urban populations up to 2030 and beyond is questionable. This is largely because future urban populations will be influenced by economic performances and the predictions of economic performances that far into the future is very uncertain. Generally economists would refrain from those predictions (Satterthwaite 2007: viii).

<sup>2</sup> Comparison to 1950 stated in Satterthwaite (2007: 1)

<sup>3</sup> It is important to differentiate between urbanisation and urban population growth. David Satterthwaite (2007) reminds us that urbanisation in statistical terms reflects an increasing proportion of a population living in settlements defined as urban

The provision of shelter and basic infrastructure and services for the rapidly growing population in the cities is a serious problem in many developing countries. To accommodate this huge influx of internal migrants to the cities is one of the biggest challenges for the years to come (World Bank 2000, UN Habitat 2011).

Those coming to the cities are foremost poor people in search for employment opportunities and a better life. Arriving in the cities they are often confronted with limited possibilities and have to adapt to the local circumstances often ending up in the peripheral areas, which are lacking infrastructure and basic services and are forced to search for employment outside of the formal economy. As a result of the shortcomings in housing provisions, a proliferation of privately developed and illegal settlements in many cities in the developing world has taken place. We know these areas as slums, shantytowns, squatter-, illegal- or informal settlements. Having many definitions, I will use informal settlements in reference to these areas.

More than half of the urban population in Turkey resides in such settlements, known as *gecekondu* and an equal number in Karachi, Pakistan, locally known as *katchi abides*. In São Paulo, Brazil, around 19 percent live in *favelas* (World Bank 2000: 146). Such housing<sup>4</sup> is usually characterised by the absence of durable structures, sufficient living space, improved water supplies, sanitation and secure tenure (UN-Habitat (2006: x). In order to address this issue the UN-Habitat conference was held in Istanbul in 1996, which formulated the following goals and obligations:

*[...] everyone will have adequate shelter that is healthy, safe, secure, accessible and affordable and that includes basic services, facilities and amenities, and will enjoy freedom from discrimination in housing and legal security of tenure (UN Habitat 1996: Article 39).*

These goals should be implemented in a manner fully consistent with human rights standards. The Habitat agenda thus states that 'affordability' is one of the most important aspects of the right to housing, while participatory and consultative mechanisms are proposed for the fulfilment of this goal (UN-Habitat 1996). Adequate shelter<sup>5</sup> is therefore seen as a prerequisite for tackling many of these problems.

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centres. He points out that the immediate cause of most urbanisation is the net movement of people from rural to urban areas, as there is also urban-to-rural migration. Hence, urbanisation occurs when there is more migration from rural to urban areas than vice versa. It is therefore important not to confuse urbanisation with "urban growth", which is an absolute term rather than a proportion (Ibid: 2).

<sup>4</sup> The absence of one or more these factors defines 'slum' (UN-Habitat 2006: x)

<sup>5</sup> However, adequate shelter means more than just a roof over one's head. Bearing in mind the relativity of the term adopted in the guidelines and its variability related to country specific socio-cultural realities, it also means adequate privacy, space, physical accessibility, security of tenure, basic infrastructure and access to work (UN-Habitat 1996: 60).

All these factors should be accessible at an *affordable* cost (UN-Habitat 1996: 60). Ensuring the access to land and legal security therefore becomes a strategic prerequisite of adequate shelter in urban areas and a possible way of breaking the vicious circle of poverty (Ibid: 75). Hence it is stressed that governments should ensure this by recognising and legitimise the diversity of land delivery mechanisms (Ibid: 76). However there is no agreed framework for how to provide security of tenure in the international debates.

In recent years the debate on land tenure, land law, and land reform has been rekindled (Assies 2009: 573). The World Bank issued its policy research report *Land Policies for Growth and Poverty Reduction* (Deininger 2003) and the same year UN-Habitat (2003) came out with a *Handbook on Best practices, Security of Tenure and Access to Land: Implementation of the Habitat Agenda*. These debates oscillates between a policy stressing private property and connecting people to markets on the one hand, and forms of use rights on the other. These are two rather contrasting approaches as to how to approach the challenges with the informal settlements. One may be characterised as a legalist approach advocating land titling in line with formal ownership (de Soto 2000, Deininger 2003), and another which emphasises security and rights before formal ownership in land tenure, which I will term the legal pluralist approach (Durand-Lasserre & Royston 2002, Payne 2004).

The global urban transition witnessed over the last four decades is presenting planning and urban management with unprecedented challenges. The task ahead is how to accommodate such massive amounts of population flux into the cities of tomorrow. Having a roof over one's head and access to basic services and infrastructure is the key undertaking; yet often out of the reach of local governments, who often simply cannot cope with the demands for services and housing. The rapid growths of cities in developing countries need different approaches than the ones applied in the developed or western countries (Roy 2005). Government attempts to provide new housing for low-income groups in developing countries have not had much success (Gelder 2013).

Rapid urbanisation makes this goal a difficult<sup>6</sup> task as the lack of sufficient funding and institutional capacities hamper the provision of formal housing in such a fast rate (Van Gelder 2013). The urbanisation rate in developed countries was much more gradual and could therefore be accommodated

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<sup>6</sup> The most serious problems confronting cities and their inhabitants include inadequate financial resources, lack of employment opportunities, spreading of informal settlements, increased poverty and a widening gap between rich and poor, growing insecurity and rising crime rates, inadequate and deteriorating building stock, services and infrastructure, lack of health and educational facilities, improper land use, insecure land tenure, increasing pollution, inadequate water supply and sanitation, uncoordinated urban development and increasing vulnerability to disasters (UN-Habitat 1996: Article 8).

in a planned manner. As Van Gelder (2013: 499) explains, streets and basic infrastructure were built before the construction of new housing and therefore had a more deliberate outcome than what we can see in the cities of many developing countries today. By reversing the sequence of formal land development from planning-services-housing-occupation to occupation-housing-services-planning, it allowed an affordable alternative to the formal housing options in cities in developing countries (Ibid).

### **Turkey: A successful model for addressing rapid urbanisation?**

If we turn our attention towards another understanding of informal settlements we find the investigative journalist Robert Neuwirth, who spent two years travelling the slums of Nairobi, Mumbai, Rio de Janeiro and Istanbul. Neuwirth (2005) argues that squatters are building the cities of tomorrow. He explains that we have much to learn from the different approaches to land, and rights taken by squatters all over the globe:

*Security, stability, protection, and control are what's important [...] give squatters security and they will develop the cities of tomorrow (Neuwirth 2005: 302).*

His outlook builds on observations during his stays in informal settlements and illustrates how people are fighting for their survival. He sees the entrepreneurial power of the people as much stronger than formal aid programmes and questions the modern view of property:

*We can learn from their example. The world's squatters offer a different way of looking at land. Rather than treating it as an economic value, squatters live according to a more ancient notion: the idea that every person has a natural right, simply by virtue of being born, to have a home, a location in the world (Neuwirth 2005: 22).*

This way, treating land as a right instead of a commodity with economic value, “offers the possibility of a more equitable city and a more just world” (Ibid: 22). He argues that if squatters were provided with secure tenure they could create liveable and stable neighbourhoods and in time upgrade their dwellings to their needs.

From an economic point of view on local households, Bromley (2009) argues that secure tenure is critical to provide incentives for households and entrepreneurs to undertake land-related investments. Security of tenure has been identified as one of the most important catalyst in stabilising communities,



improving shelter conditions, reducing social exclusion, and providing access to urban services. A recent *Global Report on Human Settlements* by UN-Habitat (2007) adopted the human security perspective that sets forth to protect “*the vital core of all human lives in ways that enhance human freedoms and human fulfilment*” (UN-Habitat 2007: 303). Living conditions are the main focus for the human security perspective since an inadequate dwelling, insecurity of tenure and insufficient access to basic services all have strong negative impacts on the lives of the urban population and in particular the urban poor (Ibid: 303). After assessing various cases from developing countries, the report points to Turkey as a possible ‘best practice’ model to learn from:

*Turkey is perhaps the only developing country in the world to have successfully accommodated massive rural to urban migration through the creation of stable and well-serviced neighbourhoods [...] as many countries around the world are facing massive urban expansion, Turkey’s squatters could become a model for developing nations around the globe* (UN-Habitat 2007: 318-19).

The report points out that this has been done with no major planning intervention, minimal investment in government-built social housing and with limited government action. The key to Turkey’s success, according to the UN-Habitat (2007) report, is based on two laws that helped them to prevent their homes from being demolished and that has provided the Turkish squatters with secure tenure. The first, the ‘*gecekondu* law’ from 1966, constituted a basis for some legal protection of squatters in urban areas. It guaranteed that people who managed to build a shack over night without being caught could not be evicted without a court process. Hence the name *gecekondu* literally means “*build overnight*” in Turkish. Hence, secure tenure is defined as the legal protection<sup>7</sup> against eviction. The second law highlighted in the report gives communities of more than two thousand people the right to petition the government in order to be recognized as legal municipal entities. The result is access to politics as they gain the right to organise local elections and elect a local government (Ibid: 318-19).

In the case of Istanbul two elected governments represent every resident: the Istanbul Metropolitan Municipality (IMM) and lower-level municipality. The local governments control many aspects of land use, can implement local plans and can collect revenues to fund local service deliveries. For the lower-level governments it partially depended on their ability to negotiate with the Metropolitan Municipality. However, this ‘access to politics’ as highlighted by UN-Habitat has allowed squatters to create self-

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<sup>7</sup> Due to the massive push to the cities by rural migrants and the lack of affordable housing and housing in general, Turkish governments implemented periodic amnesties as court cases piled up. This provided the squatters with some sort of security against eviction and essentially making them *de facto* legal, however not fully *de jure*.

governing communities and to a certain extent provided them with secure tenure even without possessing a legal title (UN-Habitat 2007: 318).

Why do people risk investing in an activity that many urban authorities seek to prevent or remove? The answer to that is partly that most people have little choice as urban areas tend to be expensive, especially in areas that are close to employment opportunities. According to Durand-Lasserve and Selod (2007: 6) secure tenure is the right of all individuals and groups to effective protection by the state against forced evictions. According to international law the term 'forced eviction' is defined as "*the permanent or temporary removal of individuals, families and/or communities against their will from the home and/or land that they occupy, without the provision of, and access to, appropriate forms of legal or other protection*" (COHRE<sup>8</sup> 2009: 13). Hence, tenure security should be understood with its opposite, i.e. as a *risk of forced eviction* (see Durand-Lasserve & Selod 2007, Gelder 2013).

### **Urban Transformation Projects and impacts on informal settlements**

As the report by the Advisory Group on Forced Evictions (AGFE 2009) shows, around 2004 the government shifted its strategy, taking a tougher stance on informal housing areas. The Justice and Development Party (AKP) came to power in a landslide victory in 2002 in the aftermath of the economic crisis in Turkey in 2001. The *AKP* enacted major legal reforms and adopted a political discourse that criminalises squatter communities on the basis of lack formal titles. The grand strategy of urban renewal through Urban Transformation Projects (UTPs) is criticised by local urban scholars as inherently neo-liberal (Kuyucu & Ünsal 2010), and even authoritarian (Lovering & Türkmen 2011) and is seen as dismantling the remaining populist redistribution mechanisms of the pre-crisis era on which the informal settlements were build (Baslevent & Dayoglu 2005).

The reforms implemented between 2003 and 2006 focused on the real estate markets due to the potential for rapid economic growth (Kuyucu 2013: 4). The informal markets of low-income housing were seen as an obstacle to unlocking the full potential of the commodification of land and housing. In this respect the privatisation of vast amounts of state-owned property and the eradication of the informal housing markets were the main strategy adopted by the government by enacting numerous legal and administrative reforms (Lovering & Turkmen 2011, Kuyucu 2013).

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<sup>8</sup> Centre on Housing Rights and Evictions

The new laws and policies that are remaking the tenure statuses in informal settlements in Istanbul are substituting the informal, flexible and complex relations of tenure and ownership with that of a 'modern' private property regime. Part of the transformation process includes giving titles to residents of informal settlements by transferring the residents to newly constructed mass housing complexes. However, determining who benefits from these transformation processes becomes a top-down decision that is differentiating between the different degrees and statuses of informality. As receiving formal title deeds is a way of securing tenure, the Turkish example highlights that the step from informal to formal, or *legalisation*, is not as straight forward as many might believe and renders the benefits of land titling for the urban poor potentially problematic when analysing the different informalities.

## Research Question

As following research question will guide this thesis:

*How have formal and informal institutions shaped tenure and legalisation in Istanbul's informal settlements and how have strategies to legalise informal settlements affected the inhabitants' secure tenure?*

The aim of this thesis is twofold: First, to analyse the key socio-political and economic dynamics over time in order to assess key factors and the institutional structure of tenure and informal housing in Turkey. Important mechanisms impacting tenure security and informal housing are discussed in detail. Secondly, in order to analyse how the various actors and institutions have affected the tenure security of people living in these settlements, a close reading of the historical development, and the more recent case of Turkey's Mass Housing Administration TOKI will discuss outcomes of government and squatter strategies toward legalisation and regulation of tenure in informal settlements. In order to answer the above research question I will present some supportive questions that will guide and structure the analysis.

- Historically, how have formal regulations and practices shaped informal settlements in Turkey?
- How have recent reforms empowered Turkey's Mass Housing Administration (TOKI) to implement urban transformation projects in informal settlements in Istanbul and how are the various degrees of informality addressed?
- Looking at the informal settlement of Ayazma, Istanbul as a case, how has the urban transformation project affected their security of tenure?

## **Thesis Overview**

In the following I will first present a general literature review that will link the research field within its epistemological and academic place. From this I will draw important lessons in order to establish the required concepts for addressing the research question.

In chapter 2 I will present the choices I have made regarding methods and theory as well as present my theoretical framework.

In chapter 3, which is the first part of the analysis, I trace the historical development of informal settlements in order to illuminate how the formal and informal institutions have shaped tenure arrangements over time. I analyse the recently implemented reforms that reshuffles the institutional setup of informal and formal relations. Here the specific focus is addressing the legal and institutional framework of the newly empowered Mass Housing Administration (TOKI). In chapter 4, I provide an outline of the current challenges faced in Istanbul in terms of housing and planning and how this is approached by large-scale urban transformation projects implemented by TOKI and Istanbul Metropolitan Municipality. In chapter 5, I address a specific case of such an urban transformation project and I address the outcomes. Finally, in chapter 6 I discuss the findings of the analysis and present my conclusions.

## Literature Review:

There exists a large body of literature on tenure and informal housing. In order to present the reader with the conceptual universe employed in this thesis, the following literature review will briefly lay out the most important discussions in the literature on the subject. This is presented in order to define the required concepts for addressing the research question.

### Land tenure and property rights

Durand-Lasserve and Selod (2007) refer to land tenure as the designation of the rights individuals and communities have regarding land. These rights can be distinguished by the rights to occupy, to use, to develop, to inherit, and to transfer land. Some may have access to all rights with full use and transfer rights, other might be limited in their use.

Thus they argue that land tenure should be viewed as a social relation involving a complex set of rules which governs land use and land ownership. In practice it is observed that different sources of law and different ownership patterns may coexist leading to a diversity of tenure situations ranging from the most informal types of possession to use of full ownership (Durand-Lasserve & Selod 2007: 2).

The common notion of property and legal tenure is that of private property, which refers to the *transferability* of the land or plot on the formal market. As Payne (2002:5) writes, it is thereby “*a recognized interest in land or property vested in an individual or group and can apply separately to land or development on it*”. In other words, what one is permitted *to do* with such land or property even without actually using it (Ibid: 5). In a similar vein Donald Krueckberg (1995: 307) rightly noted in his provoking article: “*property is not just the objects or possessions or capital in isolation, but a set of relationships between the owners of some things and everyone else's claims to that same thing.*”

This more complex understanding of property, as he argues, searches for an epistemology of distributive justice that asserts the right to personal use of property as fundamental to individual and social well-being, in contrast to the right to profit from property. Krueckeberg (1995) therefore argues that the concepts of *use rights* and *income or profit rights* in property are at the heart of urban planning questions. He requires urban planners to ask “to whom do things belong” rather than “where do things belong” as the actual use of the land should be the main issues to address rather than adhering to its legal ownership. This is what Krueckeberg (1995) calls *the difficult character of property*.

## Informal tenure

Informality is often defined negatively. That is, that it is perceived to be the opposite of formality (Durand-Lasserve & Selod 2007: 6). However, this dichotomous notion is neglecting the realities on the ground, according to Roy (2005). There are many ways informality and much debate about how to define informality. One insightful attempt is presented by Alsayyad & Roy (2004: 5), which states:

*If informality operates through the fixing of value, including the mapping of special value, then informality operates through the constant negotiability of value and the unmapping of space.*

Such a definition opens up an investigative approach to informality, which connects analytically and conceptually the informal with the formal and highlights the relational nature of both. Adapting a similar approach, Porter (2011: 116) observes that this understanding views informality not as outside formal systems, but instead as produced by formal structures. Further she argues that informal tenure arrangements always intimately relates to the formal structures to a certain extent (Ibid).

As Berner (2000: 10) writes, informal housing is one of the most voluminous and profitable segments of the informal sector. The term 'squatter settlements' suggest that urban land is there for the taking of enterprising individuals and families. He regards this as misleading and refers to the words of Denis Murphy, one of the most experienced practitioners in the area of housing problems in Asia. He comes to the sobering conclusion that "*there is no free squatting*" (Murphy 1993: viii; cf. Berner 1997: 69f; Berner 2000: 10).

Where traditional patronage-based systems of land allocation exist they are often losing significance or become commercialised themselves (Payne 1997:6ff; Berner 2000: 10). The land can then be subdivided and sold yet what is actually sold is the 'right to squat' on a certain plot (Ibid: 10). Similarly, the critical urban scholar Anaya Roy (2005: 148) highlights that in recent years it has become obvious that informal housing and land markets are not just the domains of the poor, but also important for the middle class and even elite in developing countries. This suggests that there contrary to the dichotomous division between formal and informal as a housing market becomes blurred.

In a similar vein, Berner (2000: 10) stresses that precisely because transactions in the informal land market are not controlled or registered by authorities is what makes them affordable for low-income groups. Informality thus relates to the violation of building permits or zoning regulations.

Informal tenure arrangements therefore falls within Krueckeberg's (1995) epistemology of recognising use rights before the rights to make a profit.

### Secure tenure

Some authors have stressed the importance of tenure security as *perceived* by dwellers (Payne 2002), while others have argued for *de jure* (legal) tenure security, which has often taken the form of allocating titles (De Soto 2000). Again others have focused on *de facto* tenure security, arguing that the actual circumstances are more relevant than its legal status (Durand-Lasserve & Selod 2007). The lack of consensus on what would be a good indicator of tenure security is also explicitly pointed out by Durrand-Lasserve and Selod (2007: 23) who observe that "*such an indicator is lacking in the Habitat Agenda, in the MDG monitoring systems, and the set of indicators proposed by UN-Habitat to define slums*". This makes the reliability and comparability of tenure security in existing data impossible. The only characteristic that different conceptualisations of tenure security share is that they in some way refer to the *risk of eviction* (Gelder 2010: 449). Therefore a key inquiry when investigating tenure security becomes the assessment of on what bases evictions take place in informal settlements.

## Chapter 2 Theory and Methods

This chapter will introduce the key concepts used in this thesis. Concepts such as formal and informal will be defined, and institutional theory as an explanatory lens is introduced. Also the empirical material and the underlying reasons for a choice thereof is presented, in order to guide the reader through the thesis.

### **Informal and formal institutions, and institutional change:**

The legalisation of land tenure can have different economic, social and political effects (Durand-Lasserve & Selod 2007, Payne 2002). In order to assess these, it is necessary to define the main terms and concepts related to land tenure and land tenure legalisation.

As we have seen in the introduction, it is important to address the role of the state in determining informality in tenure arrangements. The state is often portrayed as a monolithic entity. However the state consists of various institutions and organisations that have different defined functions. A basic definition of state functions can be provided by state-theorist Bob Jessop (2008).

*The core of the state apparatus can be defined as a distinct ensemble of institutions and organisations whose socially accepted function is to define and enforce collectively binding decisions on a given population in the name of their 'common interest' or 'general will' (Jessop 2008: 9).*

He asserts that the 'common interest' is always asymmetrical as it defines some interests over others, which makes it impossible to embrace all interests. Therefore the state is a site of strategy where defining policy is a selective process (Jessop 2008: 36).

In this thesis I implicitly understand the development of tenure rights, (in)formal housing, and legal statuses thereof (even though only *de facto*), through a logic of institutional theory. Informal and formal institutions coexist and influence each other. Drawing on established definitions on institutions (Scott 1995; North 1990), institutions are the "rules of the game" (North 1990: 3); both formal and informal. Formal institutions are here defined broadly as the politically and legally constituted organisations (such as governments and officially recognised groups), and the legal structures that govern and define the interaction, and legal rights of actors and institutions (laws, contracts etc.). Informal institutions are in this project defined by their non-constitutional nature in terms of legal status and official recognition



(such as concepts of right on land; extra-legal solutions in informal housing areas, and acceptance and use of formally illegal squatters as important electoral base).

As shown in the Introduction, the field of tenure rights and informal settlements is structured along a number of formal and informal institutions. The historical development of this institutional setup in the informal settlements shows how the layering of institutions and the strategy of actors in negotiating outcomes within the institutional setup have led to a large degree of accommodation of informal institutions within the formal institutional setup. Moreover, adaption of informal institutions to the formal structures – through strategic actions by actors – have bolstered the stickiness of the informal institutions, and even captured interests from within the formal structure. This leads to institutional convergence, where two initially different sets of institutions (e.g. one formal and one informal), converging into new ones, absorbing perceived qualities of both sets (Thelen 2004). In order to understand the structuration and this complex and layered institutional field, this thesis looks at its historical development path, and the actors shaping institutional change, such as policy paradigms, shifting legal statuses, and the strategies of actors to reach favoured outcomes in housing and tenure rights.

The different schools within institutional analysis can be divided into historical-, rational choice-, sociological-, and comparing institutionalism (Steinmo et al 1992). For the purpose of this thesis I am only focusing on historical institutionalism, which I shortly will explain. As outlined by Peter Hall and Rosemary Taylor (1996) historical institutionalism conceptualises the relationship between institutions and individual behaviour over time. They emphasise the asymmetries of power associated with the development and operation of institutions and follow a general emphasis of ‘path dependency’ (Hall & Taylor 1996: 10).

As informality is defined as an unregulated domain of activities, so it is often understood to be unplanned. In particular, the informal sector is seen to exist outside ‘institutional regulation’ (Castells & Portes 1989: 12) and is subsequently imagined as extra-legal (Assies 2009) or as a ‘shadow city’ (Neuwirth 2005), and informality is thus viewed as a democracy ‘from below’ (Appadurai 2002).

Critical urban sociologist Anaya Roy (2009: 84) argues instead *“that informality should not be understood as a grassroots phenomenon, but rather as a feature of structures of power”*. She views informality as an integral part of the territorial practices of state power built on the ‘fictions’ of formal and legal. Therefore she concludes, *“it is informality from above, rather than informality from below”* (Ibid: 84). According to Roy (2005: 149) this means that informality must be understood *“not as an object of state regulation but*

as produced by the state itself" (Roy 2005: 149). She draws on the Italian philosopher Giorgio Agamben (1998) who views sovereignty as the power to determine the *state of exception*. For Agamben the paradox of sovereignty consists in the fact

... [that] *the sovereign is, at the same time, outside and inside the juridical order. If the sovereign is truly the one to whom the juridical order grants power of proclaiming a state of exception, and therefore, of suspending the order's own validity, then the sovereign stands outside the juridical order and nevertheless belongs to it (...)* This means that the paradox can also be formulated this way: *"I, the sovereign, who am outside the law, declares that there is nothing outside the law"* (Agamben 1998: 18).

In this view, as noted by Roy (2005), informality can be seen as such an expression of such state sovereignty utilising the planning and legal apparatus to determine which forms of informality will thrive and which will disappear. The power of the state is then reproduced through the capacity to construct and reconstruct categories of legitimacy and illegitimacy.

Roy (2009: 80) defines informality as *"state of deregulation, one where the ownership, use, and purpose of land cannot be fixed and mapped according to any prescribed set of regulations or the law"*. She views law itself as a subject, which is open to multiple interpretations and interests. Informality is thus part of the ever-shifting relationship between what is legal and illegal, legitimate and illegitimate, authorised and unauthorised (Ibid: 80).

She refers to Ghertner (2008) who poses the vital question of why some areas are being designated as illegal and worthy of demolition while other are protected. This differentiating between the informal and the formal, rather than between the legal and illegal, illuminates inequalities of urban India today ( Roy 2009: 80). The epistemological approach to this notion of informality addresses the relationship between planning and 'the misrule of law'. She asks, *"Who is authorised to (mis)use the law in such a way to declare property ownership, zones of exception and enclaves of values?"* (Ibid: 80). The state is simultaneously the creator of legal discrimination, shutting out the informal population, and also the compassionate promoter of legalisation. Hence, Roy (2005) concludes that the legalisation of informal property regimes is not simply a bureaucratic or technical problem but rather a complex political struggle (Roy 2005: 150).

## Empirical material

This thesis takes its point of departure in the general literature on tenure security and draws lessons from the outcomes of legalisation programmes of informal settlements in developing countries.

As outlined in the introduction, Turkey has been highlighted by UN-Habitat (2007) as a possible best practice model to learn from. The study of informal settlements, *gecekondu*, in Turkey is foremost conducted by local academics. Access to in-depth studies is hard to obtain, as the already limited books are seldom available in English or at retailers. However, I have obtained one book containing an in-depth analysis (Demirtas 2009), and several chapters published in books (Keles 1990, Balamir 2002, Neuwirth 2005). Therefore, the report has relied to a large extent on a large reading of articles published in international journals within development, law, political economy, and urban and planning studies. My report is therefore based on secondary analysis, secondary literature and official statistics. Secondary analysis entails the analysis of data that other researchers have collected, which has both advantages and disadvantages compared to the personal collection of empirical data in the field (Bryman 2004). Being aware of the strengths and limitations is important for the overall validity of the report. As Bryman (2004) points out, secondary analysis has the advantage of saving cost and time spend on collection of own data sets as well as providing (often) a high degree of quality. The disadvantages with using others' datasets are that it has often already been subject to interpretations and that there is no control with data quality.

### The Turkish Gecekondu

Like many similar tenure forms found in Asia, Africa and South America, the Turkish *gecekondu* constitute a form of illegal, or informal, type of low-income housing. As the much-cited urban scholar Geoffrey Payne (2002, 2004) argues, there are many different forms of land tenure. The term *gecekondu* came into being around 60 years ago and mean literally 'build overnight' in Turkish. The concept itself is often accompanied with prejudices in the Turkish media and daily life. This reflects the public discourse on equating tenure status with ethnic division (see Demirtas 2009). More importantly, there seems to be a general confusion as to what is meant by the term in academic writings, which made the study of informal settlements in Turkey thus the harder.

Often generalisations are implied to include all forms of 'extra-legal' tenures, including unauthorised subdivisions that violate construction and zoning regulations. This is also underlined in the study by Pérouse (2004) who analysed the conceptual differences of the term and argues that it has been

(mis)used to make arguments about a particular field of investigation. He therefore proposes to use *gecekondus* as it was first specified in the 'gecekondus law' of 1966, which in article 2 states:

*In this law, the term gecekondus refers to illicit constructions, that were built regardless the general regulations and directives determining construction work requirements, regardless the soils on which building is permitted or not, regardless the fact that land do not belong to the builder and that gecekondus are being built without the owner's authorization. (quoted in Perouse 2004: 57)*

As this definition states, *gecekondus* are occupying state or private land without permits or legal consent in terms of ownership documentation. However, as shown by various local scholars the process of squatting is not a free or all, as they for the most part have to pay undocumented fees to land owners and local governments. Due to the complex nature of concepts and tenure categories one of the main tasks is to be aware of possible misinterpretations in secondary sources and be clear on comparative conceptualisations and usages.

### Choice of Study Area

Often mentioned examples of informal settlement upgrading programmes can be found in Rio de Janeiro, in Mumbai, Calcutta (Roy 2003), Lima (de Soto 2000) and other places. I argue that the Turkish case of informal settlement legalisation can add to this growing literature. The pressing issue of urban transformation taking place in the developing world makes it a viable choice of research for international development studies. As the urban scholar Anaya Roy (2005: 147) highlights "*the urban future lies neither in Chicago nor Los Angeles; it instead lies in "Third World" cities like Rio de Janeiro, Mumbai, Hong Kong*".

### Turkey

The Turkish literature on informal settlements is fairly well established and provides therefore a logic choice for studying informal settlements and the outcomes of legalisation. Much of the initial research on informal settlements is located within the cities of South America (see Turner 1968). Some examples from Turkey are provided in international essay collections, but research has mostly been executed by local scholars. Studying a subject well covered locally, however with limited reach outside its borders, makes it an interesting case to study. My initial plan was to do field work myself, yet due to personal unforeseen circumstances this option was out of reach.

## Istanbul

Istanbul is by far Turkey's largest city. The choice of Istanbul as the primary research area relates to its rapid growth as a megacity from 1 million in 1950 to 14 million today<sup>9</sup> and the growing pressures on land and housing, which are also experienced in other rapidly growing cities in most developing countries.

### The urban transformation of Ayazma, Istanbul

In order to illustrate in detail the developments of tenure legalisation in informal settlements, this thesis has identified Ayazma as a representative neighbourhood, show-casing the key processes in the development of informal settlements.

One of the main challenges was to choose a specific informal settlement that had undergone the legalisation process. This selective exercise required a great deal of insight into specific case studies in Istanbul that would acquire the capacity to make an estimate of representing a general trend. The criteria for the selection were based on the above-mentioned ability to talk about a trend, and at the same time being well documented. Requirements for the documentation were studies that on the one hand were critical towards the process of relocation and studies that were more nuanced in their assessment. Furthermore, the secondary literature should have a clear methodological description with a considerable amount of interviews and data collection as to attain a high degree of validity. In order to understand which differentiating outcomes different degrees of informality had in an urban transformation project it was important to choose a neighbourhood, which had different tenure arrangements.

With this in mind I choose the example of Ayazma neighbourhood located on the European side of Istanbul. The neighbourhood of 7.800 residents can be said to represent a typical informal settlement in Istanbul with different tenure arrangements. The urban transformation project initiated in 2004 was the first of its kind in Turkey and therefore well documented and studies by local scholars with some stressing the negative outcomes of the relocation (Baysal 2009, AGFE 2009, Kuyucu 2013) and others stressing the positive outcomes (Turgut & Ceylan 2012). All studies selected are well documented and have for the most part conducted more than 150 interviews with a wide range of officials and local residents.

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<sup>9</sup> Data from Turkish Statistical Institute, available at [www.turkstat.gov.tr](http://www.turkstat.gov.tr)

## Delimitations and Validity

Analysing informal settlements entails a high degree of uncertainty towards the statistical validity. As informality is a state of deregulation (Roy 2005) it is for the most part not represented in official statistics. This makes it impossible to provide a clear number of the various tenure statuses, i.e. illegal occupation, unauthorised subdivisions. Realising this apparent limitation to studying informal settlements I am drawing on various sources from local scholars, international organisations and government predictions in order to provide a tendential overview of the situation.

As Roy and AlSayyad (2002) highlight, informality in housing is not just for the poor, contradicting the often-stated causality between poverty and informality in housing. They underline that it is an increasing tendency for middle and even high-class groups to find shelter in informal housing in developing countries, which will be elaborated later.

In the case of Turkey in general and Istanbul in particular this distinction is hard to quantify and I have found no research that makes such an attempt. Other statistics are available and have been used in the report. Here the Turkish Statistical Institute<sup>10</sup> is the publisher of official statistics and has made considerable progress in streamlining statistical production with European standards<sup>11</sup> (European Commission 2012: 64). However one must remain critical towards them, especially when dealing with historical accounts.

As informality is shaped by historical processes by state institutions and therefore can be considered dynamic and changing with implementation (or lack) of laws and local plans, an elaborated statistical analysis does not seem viable for the purpose of this study. That said, my ontological understanding deriving from critical realism, does view the hypothetical possibility of such an attempt, but due to structural and individual constraints it remains out of reach. Another loose concept, affordability, is highly subjective and must be viewed within the larger socio-economic realities of individuals. When talking about affordable housing for the poor it remains impossible to assess this from a macro perspective. In order to overcome this challenge I have chosen to look at a particular neighbourhood as a case.

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<sup>10</sup> [www.turkstat.gov.tr](http://www.turkstat.gov.tr)

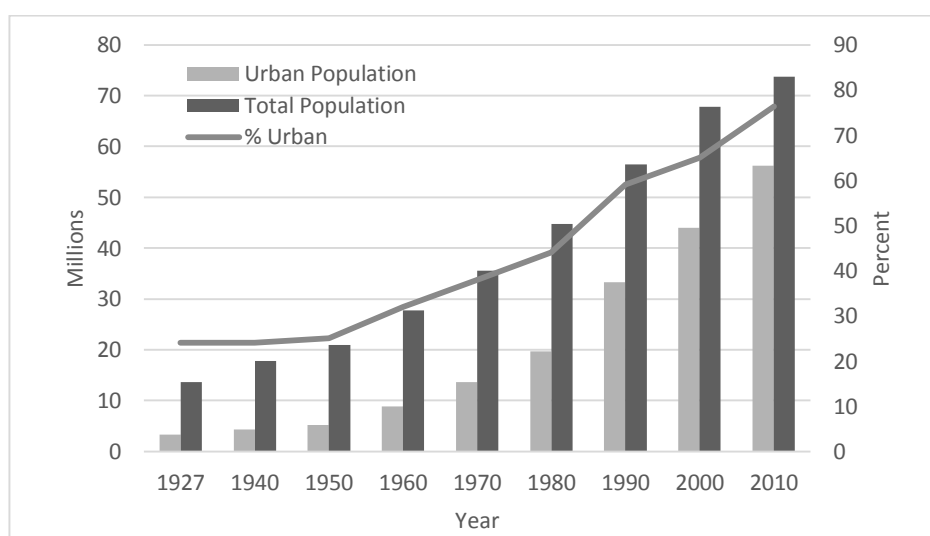
<sup>11</sup> This includes greater accessibility to micro data.

## Chapter 4: Istanbul - From City of Migrants to Global Metropolis

### Historical Development of Informal Settlements

Out of 55 million urban residents in Turkey close to 10 million people live in informal settlements (Elliott 2010). The urban population<sup>12</sup> was steady at around 24% of the total from the foundation of the republic in 1923 until the early 1950s, and it increased to 44% in 1980 and to 65% in 2000 (see figure 2). The tripling of Turkey's total population in just 50 years from 20.9 million in 1950 to 73.7 million in 2010 had a profound impact on the urban expansion and on the creation of informal settlements.

Figure 2: Turkey's Population Growth and Urbanisation, 1927-2010



Source: Figure by author, based on different population Censuses obtained from Turkish Statistical Institute, 2013

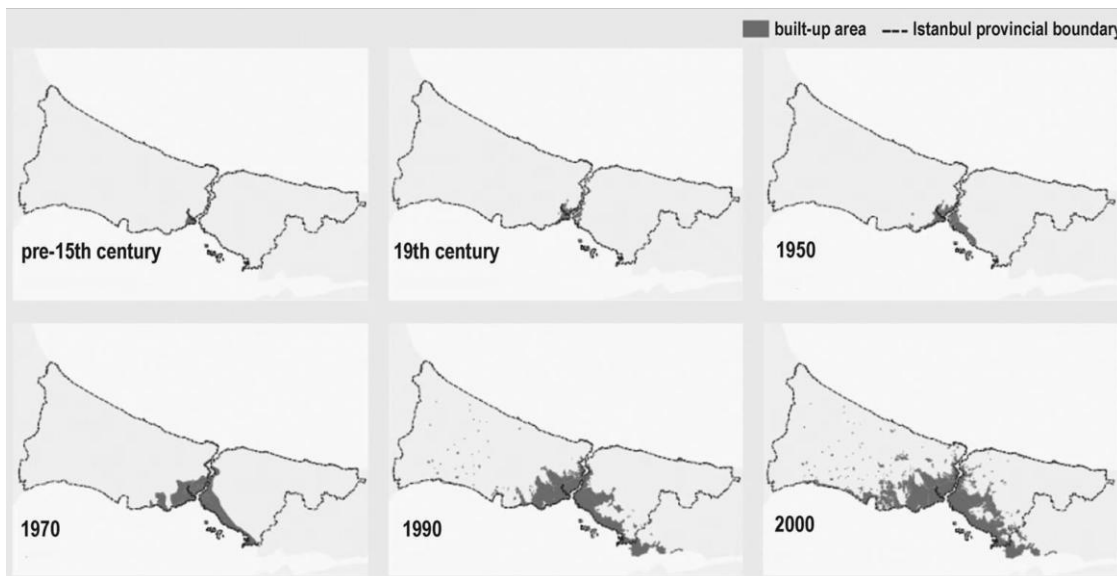
Aiming to legalise the existing housing stock and solve the ownership problem of *gecekondu* settlements, 16 amnesty laws were adopted with accompanying improvements and development plans in the 1980s and early 1990s. This however has not prevented unauthorised construction, which accounted for close to 2 million houses alone in Istanbul, Ankara and Izmir until the end of 1990s (Ozer et al 2007; Elliott 2010: 23).

<sup>12</sup> Referring to the percentage of total population in urban areas

## Introduction to Istanbul

Istanbul has served as the capital of three historic empires: the Eastern Roman (324-395 AD), the Byzantine (395-1453 AD) and the Ottoman (1453-1923 AD) and is today perceived as the cultural and economic capital of the Republic of Turkey<sup>13</sup>. Over the past 50 years, Istanbul has been facing dramatic pressure on land due to rapid migration and economic development. Being a “city of migrants” with more than 60% of its residents born in other parts of the country (Ozuz et al 2011: 344), Istanbul witnessed a ten-fold increase in its population from 1 million in 1950 to 10 million in 2000 (see figure 4). It is now a mega city of more than 14 million people and is estimated to grow to 23 million in 2023 (OECD 2009: 105).

Figure 3: Growth of built-up areas in Istanbul



Source: Urban Age 2009

The strategic location of the city as a route to the European market has made it a preferred base for private enterprises, constituting a main driver for economic growth. Out of the 500 largest industrial companies in Turkey, 242 are located in Istanbul (Cabannes et al 2010: 52). The economic importance of Istanbul is also highly visible in statistics. The city concentrates 27% of the national GDP, 38% of total industrial output and more than 50% of services, and generates 40% tax revenues (OECD 2008: 13).

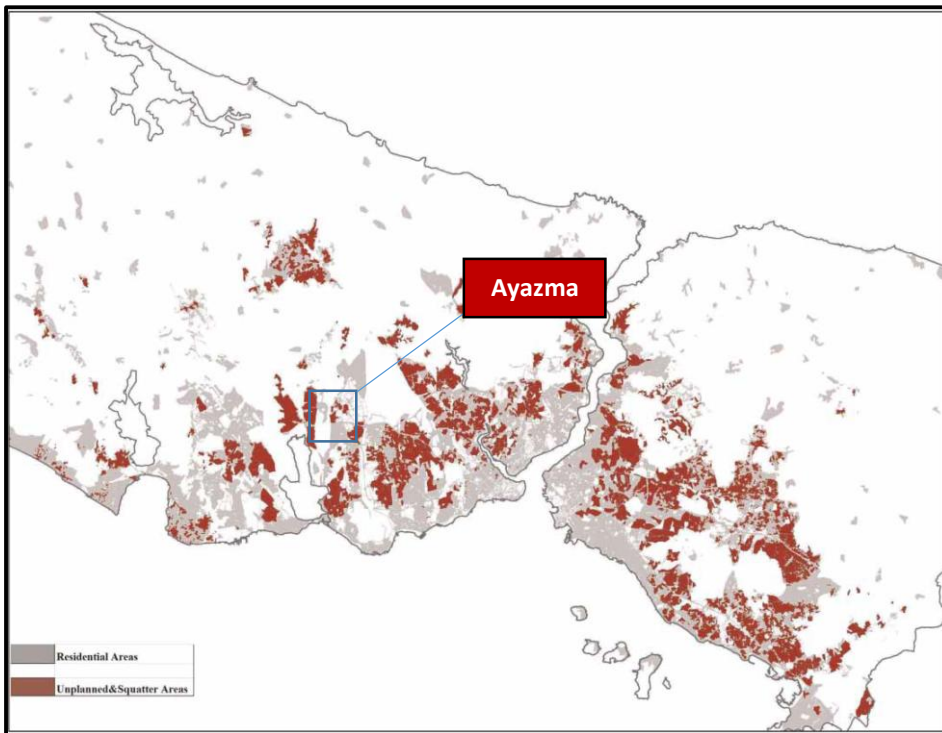
This two-sided growth, in economic and population terms, has led to the transformation of a rather elitist, historical capital of former empires to a buzzing, global megacity. Being an increasingly

<sup>13</sup> 'Capital' is here used to highlight the importance of Istanbul as an economic and cultural centre for Turkey and the Region. The administrative capital of Turkey is Ankara.



important location for international conferences and cultural mega events, Istanbul is reinventing itself, which translates into large scale urban renewal and transformation projects. The increased economic focus promoted by the central government and the metropolitan municipality has led to increased investments in large-scale infrastructure projects and real-estate. One such aspect was the nomination of Istanbul as the European Capital of Culture in 2010. With the law no. 5366 for the “*preservation by renovation and utilisation by revitalising of deteriorated immovable historical and cultural property*” (AGFE 2009: 19) it opened up for renewal and beautification of the city centre, resulting in the demolition of informal areas, such as the Ayazma neighbourhood, and the relocation of the population to the outskirts of the city to mass housing blocks.

*Figure 4. Residential and informal settlements in Istanbul, and location of Ayazma gecekondu*



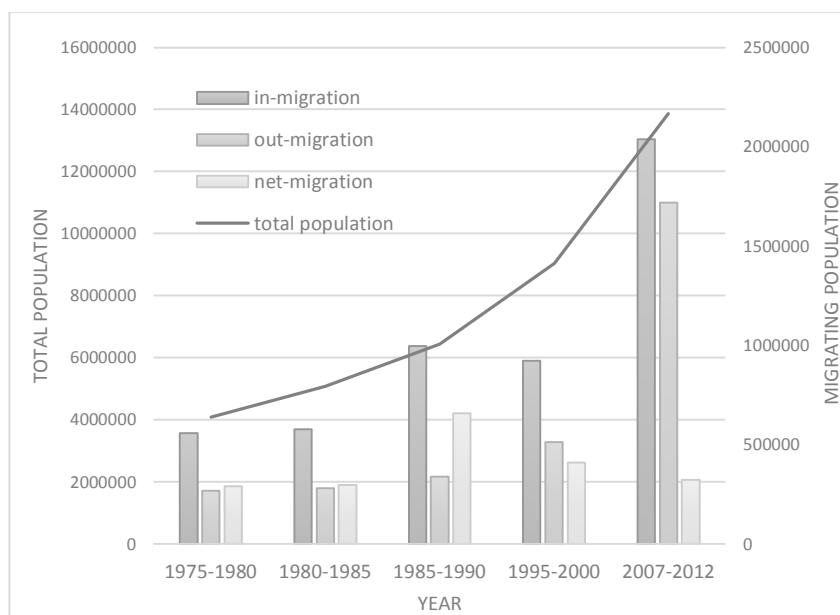
*Source: Base map from Ozus et al. (2011: 344), modified by author*

One example was its bid to host the Olympics in 2020, which was lost to Tokyo, to the great annoyance of the central government. The location of the Olympic stadium in the municipality of Kucukcekmece created a strong incentive to clean up some of the messy informal settlement areas in its vicinity. The mainly informal Ayazma neighbourhood, constituting a low-income Kurdish enclave, was the target of this urban transformation project. The outcomes on tenure security of this renewal project will be discussed in chapter 5. While the intension is to look closer at this example of informal tenure

legalisation by eviction and rehousing, I will first provide a general introduction to the pressures and incentives for the local governments in Istanbul to initiate such a process.

With the aim to turn Istanbul into a global first class city with modern housing and infrastructure is clearly aiming at a different social group than the low-income residents of informal housing (Keyder 2005). Turk and Altes (2010) state that 52% of the 3.1 million houses in Istanbul do not have construction permits and hence are considered illegal by law.

Figure 5: Yearly average migration and population growth in Istanbul, 1975-2012



**Source:** Figure by author, data from Turkish Statistical Institute from general population censuses, 1980-2000 and results of address based population registration system 2007-2012. Note: Data for the years 2001-2006 are missing as migration data could not be obtained as well as reliable data prior to 1975.

Considering the lack of accurate housing censuses and the fact that informal settlements often remain unregistered, it is very difficult to find reliable numbers on the actual amount of informal settlements, and particularly differentiating between tenure statuses, i.e. squatters without titles and dwellers with titles but violating zoning or construction regulations (unauthorised subdivisions). Therefore it is not possible to know the exact numbers and one has to rely on overall estimates. In this regard Bugra (1998: 307) refers to some of the earliest studies conducted by the Ministry of Reconstruction and Settlement<sup>14</sup> in the 1960s, which states that 45% of the population in Istanbul lived in informal settlements in the beginning of the 1960s. Citing a later study (Gokce et al 1993; Bugra 1998: 307), this had risen to 70%

<sup>14</sup> In Ankara it was 59% and Izmir 33% in the first half of the 1960s.

in the 1980s<sup>15</sup>. During the 1970s the formal construction sector, including public housing and credits, comprised only a third of the houses constructed in Istanbul and the informal market provided the other two thirds (Yonder 1987: 212). As a result, there were two distinct types of developments in Istanbul: increased density in the central areas for middle and higher income groups, and expanding lower density low-income and mostly informal settlements in the periphery (Yonder 1987). With the outer parts of Istanbul gaining access to services and infrastructure, it made the land more accessible for middle- and higher-income groups that could no longer find suitable spaces in the central parts of the city. The pressure on land led naturally to an increase in value with more and more middle- and high-income groups seeking towards the periphery (Keyder 2005).

An important emphasis is the recognition that the challenges facing Istanbul are a reflection of a national challenge in the context of huge regional disparities. Having the largest disparity among OECD countries, Turkey must address this issue, especially in the south-eastern parts of the country (OECD 2009: 26-27). Being outside the scope of this study, some of the relational consequences will shortly be touched upon. For example, considering the migration patterns from mainly rural and poor parts of eastern and south-eastern parts of Turkey, brought with it an increase of unskilled labour. The informal sector still constitutes more than 30% of the total labour force (OECD 2009: 17), but the ongoing structural changes of Istanbul's economic base, i.e. the transition towards a post-industrial, more advanced service oriented city, has increased social disparities with increasing wage differentials between service and manufacturing (Ibid: 99). The decline in labour intensive jobs is, according to the review, reflected in the gini coefficient<sup>16</sup> for Istanbul. In 2003 it was calculated as 0.43, slightly above the national average of 0.42 (UNDP & SPO 2005; OECD 2009: 99)<sup>17</sup>. Bugra and Keyder (2003: 49) emphasise in their study of what they call 'the new poverty' of Turkey that the changing character of the labour market and the declining possibilities of access to informal home ownership have made it more difficult to sustain or create a livelihood for poor migrants in Istanbul.

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<sup>15</sup> In Ankara it was 55% and Izmir 50% in the 1980s.

<sup>16</sup> The gini coefficient is a summary statistics that measures how equitable a resource is distributed in a population. Income is a primary example. The coefficient varies between 0, which reflects complete equality and 1, which indicates complete inequality (one person has all the income, all others have none). The approach has been criticized by social scientists for not being able to grasp differences between sub-groups. For further elaboration, see <http://web.worldbank.org>

<sup>17</sup> Poverty data is not available at the local level in Turkey, but is divided into national, urban and rural categories. There are some indicators that poverty rates are still high, even if poverty rates are lower than in other parts of the country, especially compared to rural areas.

## Types of Informal Settlements

There are two types of informal settlements in Turkey, which can be distinguished by its means of appropriation. The first type is based on squatting, and is generally referred to as *gecekondu*. The second one is unauthorised subdivisions or *hisseli tapu* (shared title deed).

A *gecekondu* entails occupying and building a house on someone else's land without securing the proper permits. As explained by Demirtas (2009), the term *gecekondu* is not applicable to the current form of land appropriation any more, as this form of occupation stopped in the end of the 1990s. In this thesis it is used to refer to the earlier ways of land appropriation. In *hisseli tapu* subdivisions, residents hold legal title deeds (*hisseli tapu*) to shares of a large parcel of land, yet the subdivision of that land and the constructed dwelling is unauthorised (Yonder 1987: 215). This form of unauthorised subdivision became the main form of tenure and is still considered extra-legal as it violates construction and land use regulations.

As informal settlements in this thesis are addressed as informal institutionalised practices and seen as shaped by the convergence of formal and informal practices over time. Therefore I will shortly provide a general outline before addressing the historical dynamics of that shaped the institutions of formal and informal tenure.

The informal settlements in Turkey and in Istanbul in particular have been widely studied by Turkish academics since its first appearances in the 1950s. The major themes in the literature has focused on rural to urban migration (Karpas 1976), housing policies (Keles 1990), and impacts of globalization (Keyder 1999; 2005), and more recently on the 'neoliberal' restructuring of property markets through urban transformation projects in *gecekondu* areas (see Lovering & Turkmen 2011, Kuyucu 2013).

A recurring area in most research related to informal settlements is the link to Turkey's modernisation efforts and how this translates into the physically built environment fuelled by patronage networks and populist policies (see Yonder 1987, Bugra 1998, Keyder 2005, Demirtas 2009). According to Castells, urban populism is "*the process of establishing political legitimacy on the basis of popular mobilisation supported by and aimed at the delivery of land, housing, and public services*" (Castells 1983: 175). *Populism* in the Turkish context can be understood as granting amnesties to informal settlements in the exchange of votes (Lovering & Turkmen 2011: 76). As rapid and unplanned urbanisation is an inherent component of modernisation in Turkey (Kilinc et al 2012), it has led to explicit challenges for local planning torn between the positive improvements on income distribution through illegal occupation of state land at the expense of undermining the rule of law (Baslevant & Dayogly 2005: 43).

According to Özdemir (2011) three important historic periods can be identified in the provision of housing supply in Turkey. The first period from 1950 to 1980 can be characterised as the time of the “housing boom” (Özdemir 2011) or what Sengul (2003) calls “the urbanisation of labour power”. In this period the central government acted as a regulator rather than a direct provider regarding housing.

The second period from 1980 to 2000, also defined as the “urbanisation of capital” (Sengul 2003), is marked by important reforms in the economy towards greater liberalisation and a restructuring of the local governments. This led to the commercialisation of the informal housing markets with mixed outcomes for the informal settlements. The increased powers of the local governments led to often overlapping and conflicting planning approaches and the institutionalisation of patron-client relationships in the housing markets.

The last period, from 2000<sup>18</sup> until present, witnessed the continuation of the commercialisation of the housing market with the profound difference that the state now played a major role as both regulator and provider of housing (Özdemir 2011). The central government had shifted its rhetoric towards the *gecekondu*s, branding them “illegal” and “criminal” and initiated large-scale Urban Transformation Projects (UTPs), especially in Istanbul. After granting the Mass Housing Administration (TOKİ) increased judicial powers in terms of local plan modifications and the ability to implement urban renewal projects, the informal settlements became the prime target of reconstruction efforts.

This chapter will outline the historical background for the formation of informal settlements in Turkey and discuss the changing roles of the state in the housing market and the dynamics between inhabitants of informal settlements and the public authorities. The following section will start with from the beginning of rapid urbanisation in the 1950s up until the 1980s.

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<sup>18</sup> To be precise it should be from 2002 and onwards, contrary to Özdemir’s (2011) probable ‘cosmetic’ dating, with the landslide victory of the AKP that year and the subsequent restructuring of the players in the housing market.

## **1950-1980: Migration and the Rise of the *Gecekondu***

In the aftermath of the First World War followed the Turkish War of Independence, which constituted the two events that led to the collapse of the Ottoman Empire in 1923. Out of its ashes the Turkish Republic was established in 1923 by Mustafa Kemal Atatürk and was until 1950 ruled by the Republican People's Party. This single-party-government's major goal was the modernisation of society, taking the West as the model, creating a new Turkish identity. Apart from adapting the Latin alphabet and moving the capital from Istanbul to Ankara, Atatürk's highly cherished legacy was the transformation of Turkey into a modern, secular and democratic nation-state.

In the beginning of the 1950s the most dramatic transformation took place in the rural areas as a result of the rapid increase of imported agricultural machinery. The strategy utilised in the modernisation process was characterised by creating growth through agriculture-oriented exports, which led to the increasing migration from rural to urban areas. The migrants, who were mostly poor and with little or no educational background, sought towards the major cities of Ankara, Izmir and Istanbul in the search for employment (Sengul 2003). In the cities they were faced with the formal institutional setup responsible for overseeing the urban development.

The district municipalities were under the Ministry of Public Works and Settlements, and hence were an extended arm of the central government. The local municipalities in contrast were elected by its constituencies. As Sengul (2003) highlights, strong centralised state and subsequent weak local governments were a way to control the process of modernisation.

As Sengul (2003) explains, the established urban population viewed the squatters as challengers to the formal order of private property rights. Arriving in the cities they started occupying mostly state owned land, which was illegal according to the law. Yet Payne (2002: 4) argues that the notion of private property was not seen as an obstruction by the squatter to invade state owned land. This was because the Ottoman Land Law of 1858 had entitled any citizen to claim unused state land and occupy it for as long as they used it. Consequently, when migrants moved from rural areas to the cities, they did not consider that they were acting outside the law (Payne 2002: 4). This suggest that the squatter's perception of occupying state land was not considered as a direct violation of tenure as they had another institutionalised approach to land tenure which was routed in past arrangements. This conflicted with the formal tenure system in the urban areas, which led to pressures from segments in the urban society on the central government to address this issue (Demirtas 2009: 72). Consequently the state adopted Law No. 5431 in 1949 that required the demolition of the informal settlement (Ibid). However, as Demirtas (2009: 72) shows, due to lack of resources and manpower these laws could not be realised.

In the light of the restoration of the multi-party system in 1950 and the sheer amount of squatters that had reached the cities, it became impossible for politicians to ignore the latent powers of the vast electorate it represented. At that time, according to Bugra (1998: 307), 45%<sup>19</sup> of the population in Istanbul lived in informal settlements. Hence, the state had to accept the benefits of squatter housing as a viable alternative to other forms of housing provision in the light of its own inability to provide alternatives.

As the squatting continued even after facing demolition, the policies towards them changed in the beginning of the 1960s. According to Demirtas (2009: 72) four important factors can explain this change in policy. First, squatters now constituted a significant portion of the urban population. Second, the former single-party system was exchanged with a multi-party system. Third, the civil servants had often no interest in following the demolition orders, as they themselves were living in the informal settlements. Finally, for many civil servants the demolition process became a means of taking bribes from the migrants.

This shows that the formal regulations were not effective in their intended purpose. The informal codes of conduct followed by state officials were restrained by structural circumstances. Considering that civil servants also were part of the informal tenure system, highlights the ambiguous interplay between law and practice. Thus Demirtas-Milz (2013: 694) explains that municipal officials or civil servants at lower levels took the initiative and acted either within the ambiguous context of the law or outside the legal context, but generally to the advantage of gecekondu dwellers.

*Table 1: The growth of gecekondu and gecekondu population, 1955 – 1980*

Year	Total population	urban population	Gecekondu population	Gecekondu population as percentage of total urban population	Total housing units	urban housing units	Number of gecekondu	Number of gecekondu as percentage of total housing units
1955	5,324,397		250,000	4.69	1,050,000		50,000	4.76
1960	7,307,816		1,200,000	16.42	1,440,000		240,000	16.67
1970	12,734,761		3,000,000	23.55	2,800,000		600,000	21.43
1980	20,330,065		4,750,000	23.36	4,500,000		950,000	21.11

*Source: Keles and Payne (1984: 181), cited in Sengul (2003: 160)*

<sup>19</sup> Bugra (1998: 307) refers to some of the earliest studies conducted by the Ministry of Reconstruction and Settlement. In Ankara it was 59% and Izmir 33% in the first half of the 1960s, and 55% and 50% in the 1980s.

In the 1960s the priorities of the state shifted towards supporting the rapid industrialisation processes with import-substituting economic policies by allocating as many resources as possible to industrial investments (Özdemir 2011). In line with the focus on industrialisation, the squatters were an important part of the economic policy as they provided the necessary cheap labour (Sengul 2003). The consequences of this strategy for the urbanisation process was the minimal flow of resources into the built environment by both state and private investments and a weak local government to deal with the demands of the newcomers (Sengul 2003). The neglect of the increasing demand for housing left the migrants with little choice but to squat on state or private land in the urban areas and the delivery of services, such as clean water, sanitation and waste collection, was hampered both by the lack of funds in the local governments as well as due to the illegality of their tenure (Yonder 1987).

Until the early 1960s squatting was a self-help process, without the assistance of the public authorities. Building a squatter dwelling was a joint effort of family members, relatives and friends and the buildings were mainly for self-use (Keles 1990). Similarly, Demirtas (2009) highlights that community based networks were the most important mechanism for people to settle and get employment. The migrants usually settled in areas where others from their rural villages had settled<sup>20</sup>.

### Gecekondu Law

The first legislative approach addressing the squatters directly can be found in the first Five-Year Plan prepared by the State Planning Organisation in 1963, which proposed improvements rather than demolition as a solution to the housing problem (Danielson & Keles 1985; Sengul 2003: 160). This approach was three years later in 1966 translated into the *Gecekondu* Law No. 755. The law proposed to deal with squatter settlements through upgrading or prevention, where 'habitable' *gecekondus* would be improved and 'uninhabitable' ones cleared with new housing provided on public lands in a different area (Yonder 1987). Considering the relativity of the definitions in the law and the previously highlighted ambiguous relationship between state officials and the informal tenure arrangements, made the designation of 'uninhabitable' areas a selective process imbedded in informal practice.

As the numbers of the squatters had increased dramatically, another *Gecekondu* Law No. 1990 was implemented in 1976 amending and extending the previous law to include an amnesty to all *gecekondus* built on public land after 1966 (Leitmann & Baharoglu 1998).

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<sup>20</sup> For a thorough analysis on ethnic and village divisions and the political discourses towards them, see Demirtas (2009)



## Populist Policies and Social Legitimacy of Informal Tenure

In Istanbul, most of the existing land was designated as upgrading areas, yet the deadlines for setting the boundaries for upgrading areas were continuously extended. This became a trend as elected mayors responded to the growing demands of their constituencies (Lovering & Turkmen 2011).

Demirtas-Milz (2013: 694) highlights that a populist mayor could give a covert signal that zoning regulations would not be enforced, which in turn spurred the organised occupation of land and resell by those who had clientelist connections in place. From a legalist viewpoint, this resulted in 'theft' from the common good and from private owners whose property rights in effect went unrecognised. This shows that there was a blurred distinction between what is legal and what is considered legitimate claims to land and housing, which is a clear indication of the increasingly conversion of formal and informal.

Balamir (2002:175) draws an important distinction between legality and legitimacy in the Turkish context. In reviewing the range of informal land tenure processes in Ankara, he concludes that these processes have enjoyed a high degree of social legitimacy in the absence of affordable formal options. He identifies legitimacy as a result of their presence in an area. The longer they 'survive', the stronger is their acquired legitimacy, and administrations refraining during this period from carrying out the legal obligations. This shows that the conversion of the illegal land occupation towards becoming an accepted practice was highly dependent on time and the general perception of society towards them.

Consequently the *Gecekondu* Law and the social legitimacy the squatters enjoyed secured the squatters against arbitrary evictions without a court process. As emphasised by Yonder (1987) and Neuwirth (2007), these laws can be seen as a success as they provided *de facto* tenure security, if not fully *de jure*. Over time this security and inherent social legitimacy facilitated improvements and the delivery of urban services to the settlements. Constituting a spontaneous bottom-up process of neighbourhood self-help, underlines the importance of the community for successful squatting. The strong community ties and the ability to influence and elect local politicians, or what UN-Habitat (2007) calls *access to politics*, constituted the backbone of secure tenure for the migrants.

The community networks in the *gecekondu* were strong and constituted the most important base for the inclusion in the city through employment and housing. With the restoration of the multiparty system and their 'strength in numbers', the dwellers could strategically utilise their bargaining power as a group in the exchange for votes with local politicians. These clientelist and informal networks between state officials and squatters were the backbone of their secure tenure status. The civil servants also adapted informal practices in postponement or permanently ignoring the demolition orders against *gecekondus*,

either through bribery or through clientelist networks. The benefits of this interplay provided, apart from not being evicted, the informal settlements slowly with services such as water and electricity even though they had no legal status. We can therefore justify the positive statement by the UN-Habitat (2007) that Turkey has been successful in this initial period. Although the report states that the formal legal regulations were an important aspect of this it has to be highlighted that the institutionalisation of informality in the public institutions played a significant role in the positive outcomes for informal settlers.

To sum up, informality has played a crucial role in the macro politics of the *gecekondu* itself which took the form of the two amnesty laws. It can be seen a failure of the state to enforce the legal framework governing tenure, but the analysis shows that other formal institutions, such as a democratic right to vote, can shape other formal institutions, that of private property. This process had to be understood as a slow conversion that over time shape each other towards a formalised and ambiguous practice that can then be considered a new institutionalised way of tenure securitisation. From an urban planning perspective, even if socially considered a success, the illegal element and haphazard nature of land occupation was going to become a greater challenge in the years to come.

## 1980-2000: Economic liberalisation, amnesties and commercialisation of informal settlements

The year 1980 was a turning point in Turkish history. The military coup that year, and the following military rule, which lasted until 1983 banned all political parties and their leaders for a ten year period on the grounds of challenging the secular doctrine and being unable to tackle the rising unrests in the country at that time. The military rule led to a change in policy from an import substituting industrial economy to one focusing on seeking export growth, global capital and privatisations. The increasingly market oriented approach intended to open Turkey up to world markets by stimulating a free-market economy in line with the recommendations of the International Monetary Fund and the World Bank (Enlil 2011: 13). New parties were founded under the close surveillance of the military, and the Motherland Party (ANAP), which distinguished itself by its liberal approach and headed by Turgut Özal, a former employee at the World Bank, went victorious out of the 1983 elections. In Sengul's (2003) words this was the starting point of the increased "urbanisation of capital"<sup>21</sup> in Turkey's cities.

In 1983, the new government essentially gave up the fight against already existing squatters. It adopted the Amnesty Law No. 2805 in 1983 and the Redevelopment Law No. 2981 in 1984, which were going to become a milestone in *gecekondu* history and reflected a new policy. They were motivated by decreasing availability of empty plots, increasing land values, and the pressure to increase the authorised land in major cities. The new laws had two important differences from other amnesty laws according to Demirtas (2009). First, it permitted the distribution of title deeds to *gecekondu* settlers who had built on either state owned land, land of foundations, or municipal land with the condition that the settlers would pay for the land already appropriated. Secondly, it permitted the informal neighbourhoods to be redeveloped with higher-density housing (Demirtas 2009: 86).

### Local governments, planning deficiencies and informal coping rules

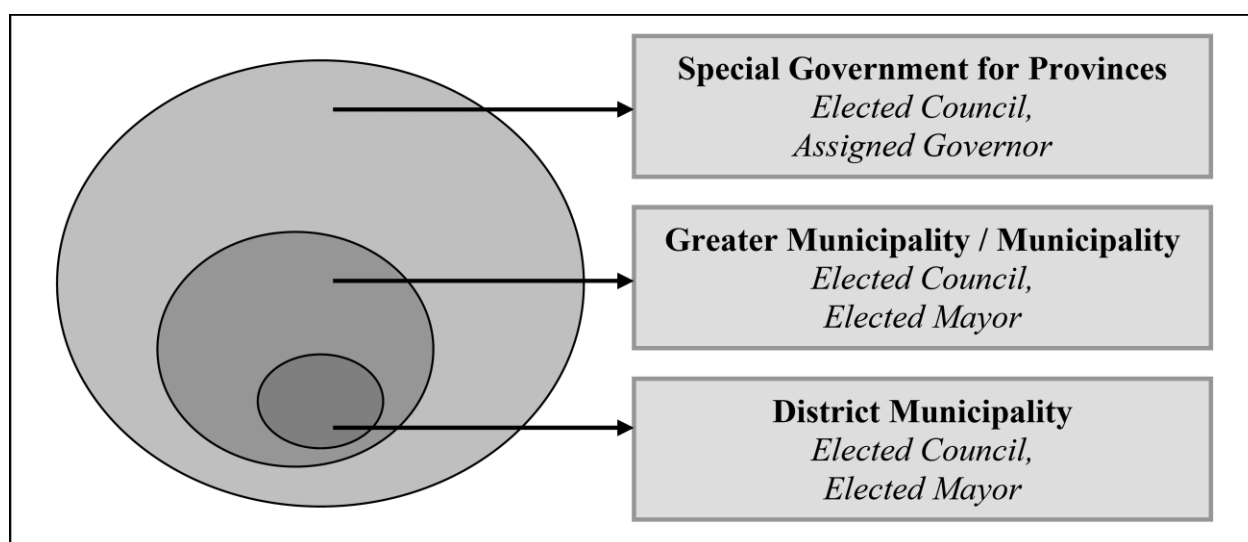
These good intentions had unintended outcomes for the urban composition which according to Demirtas (2009) have to be understood in relation to the local government reforms also implemented in 1984. The government adapted a new policy innovation regarding metropolitan areas. It was the creation of a new two-tiered metropolitan government model for the large cities, namely Istanbul, Ankara and Izmir. This transferred the authority for coordination and administrative action from the

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<sup>21</sup> With "urbanization of capital" she refers to the increased market oriented policies focusing on de-industrialisation and the increased importance on attracting foreign capital.

central government to the metropolitan municipalities; in Istanbul it was the Istanbul Metropolitan Municipality<sup>22</sup> (IMM). A second tier of district municipality was also introduced each with their own elected mayor and municipal council (see Figure 3). The restructuring created powerful metropolitan municipalities, yet it also created a great deal of confusion in regards to responsibilities of various central-government ministries and the new local authorities (see Demirtas 2009, Erder 2009, Unsal 2009). This confusion can be seen as an outcome of institutional layering where multiple formal institutions overlap creating a new space for strategic decision-making.

Figure 6: Local Governmental System



Source: Unsal (2009:8)

In terms of urban construction and land development, some powers were passed to the metropolitan municipalities in terms of decision-making and financial aspects. One particular point is of great importance to the development and later urban renewal process after 2000 of informal settlements. As the local governments, with the greater decentralisation were obliged to generate most of their own fiscal revenue, this turned land into the main source of income-generating activity (Bugra 1998, Demirtas-Milz 2013). The consequence was that the municipalities granted the densification and redevelopment of municipal land especially in informal settlements. This financial dependency on urban land speculation and development was and still is one of the main motivations for informal settlement renewal.

<sup>22</sup> *Istanbul Buyuksehir Belediyesi* (In Turkish), accessible from [www.ibb.gov.tr](http://www.ibb.gov.tr)

The objective of the amnesty laws in the beginning of the 1980s was to bring *gecekond* settlements into the scope of official planning, however this was more challenging than anticipated. Through this legislation improvement and development plans were added to the already complicated planning system between central-, metropolitan and local authorities. The intended target of these plans was to upgrade the living standards in the informal settlements (Lovering & Turkmen 2011). These plans were supposed to be transitory implementations for bringing the informal settlements into the legal domain. However, these instruments of improvement have over time been transformed into a means of increasing the growth of informal settlements and increased land speculations (Unsal, 2009: 7). Yonder (1987) specifically points to the rapid increase in unauthorised subdivisions, or *hisseli tapu* as they were known in Turkish, as the main form of land speculation in urban areas. The landowners were private individuals who sold parts of un-plotted land that had legal use restrictions, hence unauthorised subdivisions.

This was mostly agricultural land in the periphery of the larger cities, such as Istanbul, where the selling of the land was legal yet the constructed dwelling was not. Thus the *hisseli tapu* provided landowners with a channel through which to sell the land that they could not dispose of on the formal market (Yonder 1987: 216). The high returns possible in this arrangement attracted wide variety of entrepreneurs to the *hisseli tapu* market as selling the title deeds incurred no responsibilities on the seller. Having ties to the local authorities, and often themselves involved in local politics, the land dealers provided these developments with the needed public services such as water supply, sanitation and electricity, as it would increase the prices for the plots, yet as they were not obliged to deliver these services often the costs had to be carried by the migrants who bought the *hisseli tapu* (Ibid: 217).

As explained by Neuwirth (2007), the squatters quickly realised the advantages of the new laws. Even without planning permission, they began to tear down their old-fashioned single storey homes and started to build three- and four-storey houses of reinforced concrete and bricks (Neuwirth 2007: 6). Baslevant & Dayoglu (2005) therefore conclude that this encouragement of actual legalisation of *gecekond*s fuelled the further invasion of public property and paved the way for widespread land speculation, an argument also supported by most other Turkish academics (see Keles 1990, Bugra 1998, Özdemir 2011, Uzun et al 2010 and others).

Özdemir (2011) highlights that it was still almost impossible to access the formal housing market. She explains that in order to develop vacant land for residential use it took on average almost seven years and approximately 250 signatures. This time-consuming bureaucratic procedure and the high costs

associated with the legal procurement also spurred illegality in the housing market (Kuzu 2004: 268; Özdemir 2011: 1104).

Between 1980 and 2000 many middle-seized builders, large housing construction firms, private individuals, housing cooperatives and the public sector were all active in housing provision. Especially in Istanbul there was a high increase of luxury housing for upper-middle- and high-income groups in the form of gated communities (Keyder 2005).

The analysis of Demirtas (2009) shows that local government reforms on the one hand and the legalisation of informal settlement on the other provided the basis for the institutionalisation of patronage networks within the local municipalities and small scales entrepreneurs (Demirtas 2009: 87). In a similar vein Yonder (1987), Bugra (1998) and Uzun et al (2010) argue that the amnesty laws have not been a solution to the issue of housing provision. Their researches reveal that the new amnesty laws did not prevent the generation of informal settlements, but instead have encouraged people to construct new ones with the expectation of further upcoming amnesty laws. This left room for entrepreneurial speculations focusing on profit instead of use.

## Commercialisation of informal housing markets as a way to escape poverty

There are different interpretations as to how the outcomes should be interpreted. Uzun et al (2010) adopt a critical approach towards these reforms when analysing the process and outcomes of the legalisation of the informal settlements. They perceived this period, 1980-2000, and the amnesty reforms as an ineffective way to address informal settlements. The bar of measurement by Uzun et al (2010) is the continuation of informal settlements by occupying state land, which they see an “enrichment tool” (Uzun et al 2010: 206).

Baslevant & Dayoglu (2005) viewed the *gecekondu* as an informal redistribution process by the state. Their argument builds on that the failure of the state to provide social assistance to the poorer sections in society in turn forced the state into an income transfer that took the form of occupying state land.

Demirtas (2009) analysis shows that the socio-economic differences that were beginning to emerge in the previous decade were intensified as a result of the further commercialisation of the construction process. It became widespread that the well-established migrants owned more than one house and as a result the number of tenants increased rapidly.

From the mid-80s the big cities faced a new wave of migrants from other rural areas than previously (AGFE 2009: 11). The increased tensions and clashes between the Turkish military and the PKK initiated a wave of mainly Kurdish migrants from the South-Eastern parts of Turkey who fled due to security reasons and to find new livelihoods in the cities. The sheer number of these internally displaced people led to a jump in the urban statistics for the big cities in the 80s. This second wave of Kurdish migrants did not have the same networks in the cities as the first wave of migrants and mostly ended up as tenants in already existing *gecekondu* settlements (Kuyucu 2013). Over time many of them managed to move up the latter and established their own houses as unauthorised subdivisions.

A much-cited study conducted by Pinacioglu and Isik (2008) provide a clarifying analysis of the development of the particularities of urban poverty in the informal settlements in Istanbul. A key development in the period of the 1980s and 1990s, in extension to the above discussion on commercialisation of informal settlements, was the shifting dynamics between the established migrants and the newcomers. The particular dynamic of urban poverty is what they called “poverty-in-turn”, which requires a short explanation.

Pinacioglu and Isik (2008: 1354) explain how the urban poor in Turkey adopted aggressive survival strategies in the face of volatile economic conditions by strengthening networks on religious, ethnic and cultural basis. Thanks to these networking relations, the urban poor benefited from both the informal

market mostly within labour intensive industries and the real estate market of squatter housing. These strategies provided the urban poor with a possibility of upward mobility.

The newly arrived migrants were not reluctant to take over the bottom positions in those networking relations, and themselves hope for moving up the latter and capitalise on other newcomers. As the newcomers ended up being tenants in the *gecekondu* of already established migrants, the rent they paid became the key component of this dynamic. Having an extra income by subletting a room or apartment created the necessary capital to slowly invest in further constructions. This dynamic cycle is what Pinarcioglu and Isik (2008) call “poverty-in-turn” and shows how informal tenure arrangements strategically can be utilised as an income which allowed the poor to become “escapees from the poverty traps”(Ibid: 1354).

As Keyder (2005: 127) described it, the informal neighbourhoods were “*distinguished by the unfinishedness of three- and four-storey buildings, constructed out of cheap concrete and brick and often lacking a final plastering, that are located haphazardly within what seems to be random settlement patterns*”. This ‘unfinishedness’ was part of the slow process of investments in their homes and was possible due to the *de facto* secure tenure enjoyed. This in turn provided affordable accommodation for new migrants as tenants.

### Erosion of legitimacy and institutionalisation of informal relations in the public sector

The informal settlements in Turkey, even though they have been on the agenda since the 1940s, have rarely been discussed as a problem of the violation of property rights prior to 2003. They have been addressed rather as a social problem and approached with proposals of low-income housing projects. However, since these projects rarely have materialised in an effective way, the demolition of existing *gecekondus* was regarded as an act of cruelty against helpless individuals and mostly represented as such in the media.

This is what Bugra (1998) refers to as the “moral economy” of housing in Turkey, where a particular understanding of socially defined human needs have prevailed over the principles of property and contract underlying the market economy. In her analysis of the moral evolution of the Turkish housing market she observes that the formal economy of housing and its regulation by the state are strongly conditioned by behavioural regularities and institutional practices formed within the societal context of informal housing (Bugra 1998: 314). Therefore she concludes that the context of informal housing appears to be a decisive factor in determining outcomes of legalisation (Bugra 1998: 307).



As discussed, in the period between 1950 and 1980 the informal settlers were viewed as “innocent and marginal communities” (Akbulut & Baslik 2011) who were trying to make ends meet and therefore enjoyed a favourable perception in the wider public. The “moral economy” (Bugra 1998) was based on a social legitimacy while lacking formal housing options. This led to populist redistribution policies practices by local officials and the establishment of *de facto* secure tenure. The combination of amnesties, liberal policies and decentralised local governments after the 1980s led to the institutionalisation of the previous populist ‘favours’ by public officials to become a way of rent-seeking and the creation of an actual extra-legal housing market. Therefore Bugra (1998: 314) concludes that this commercialisation of informal housing and extra-legal appropriation of public land “eroded the moral basis” of the previous era, hence becoming the “immoral economy” of housing in Turkey. The institutionalisation of the clientelist practices into local governments did not necessarily favour the least advantaged migrants, but rather those who had ties to those in power including the urban middle class and real-estate developers. From an economic point of view on property, the period between 1980 until 2000 witnessed a change in the informal tenure system from *use value* to *exchange value* creating an informal housing market. The erosion of their moral legitimacy changed the discourse towards the informal settlements focusing on their extra-legal status, which in turn became the final verdict imposed by the AKP at the turn of the century.

To sum up, the shift in policy and a new institutional setup of local governments led to a confusion in urban planning responsibilities. This institutional layering created the space for a large degree of accommodation of informal institutions within the institutional setup. As these were largely build on the previous clientelist relations between squatters and civil servants it created new room to capitalise on land which especially benefitted the former migrants who now acted as middlemen between new migrants and the access to housing. The amnesty law in the 1980s gave the former squatters title deeds which created a *de jure* tenure situation and can be seen as the final positive step in securing their tenure within the formal system. As the migration continued, the new migrants did not have the same access to housing and land as the former migrants. With the formal housing system still unable to take on the new migrants these found their way into informal tenure arrangements provided by the previous migrants, who through informal connections to the local governments could sell subdivided land to them, but which was not authorised formally. This created a different form of tenure arrangement, still illegal according to law and therefore insecure, but also a means of accessing affordable housing within the blurred complexity of informal and formal tenures.

## 2000 – Present: The role of the state as regulator and provider of formal housing

At the turn of the century there were two major events that were to shape the policies towards informal settlements. The first was the devastating earthquake in 1999 in the Sea of Marmara just a few kilometres south of Istanbul, which caused around 18.000 deaths and massive damages to buildings and infrastructure. The second event was a major economic banking crisis in 2001 that led to high inflation of the Turkish Lira, loss of thousands of jobs and a general decrease of real wages (Dufour & Orhangazi 2007).

The highly conservative Justice and Development Party (AKP), who initially had formed the Islamist Virtue Party, the successor of the Welfare Party<sup>23</sup>, were promoting themselves as advocates of change. When the AKP, headed by the current Prime Minister Recep Tayyip Erdogan and current President Abdullah Gül, formed the single-party government in 2002, they provided their promised change by initiating major economic reforms that were to dismantle the populist redistributive mechanisms, i.e. amnesty for votes, of the previous eras (see Keyder 2005).

Part of the strategy to deal with the economic crisis was placing importance on real estate markets as an engine for rapid growth (Kuyucu 2013). This was done with the privatisation of vast amounts of state-owned land and the gradual eradication of the informal market in low-income housing, which were seen as an obstacle to the full commodification of land and housing (Kuyucu 2013: 4). As Keyder (2005: 130) stresses, the former populist politicians now responded to market-mediated demands rather than to a potential constituency of new migrants. The ‘access to politics’, as highlighted by the UN-Habitat (2007) report, which was an outcome of populist redistributive mechanisms and had provided the squatters with *de facto* secure tenure up until the turn of the century, had now shifted their allegiances to supporting urban renewal by rehousing informal settlements. Keyder (2005: 130) notes that national and local politicians were now less willing and less able to engage in a clientelist exchange with the migrants, because “*land had finally become a commodity*”.

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<sup>23</sup> The Welfare Party was banned from active politics by the decision of the Constitutional Court in 1998 with claim of becoming the centre of activities contrary to the principles of secularism (Demirtas 2009: 94).

## Urban Transformation Projects

The key player in the process of creating a formal property market was the Turkish Mass Housing Administration (TOKI). After the 1990s land values have risen in Istanbul and the possibility for high returns from residential and commercial property have drawn an increasing interest from both domestic and foreign investors (Turk & Korthals Altes 2010). As the role of the public sector in the provision of housing was still minimal<sup>24</sup> at the turn of the century, the reforms were especially targeting TOKI (Ozdemir 2011).

In the period 2003-2006 various laws concerning renewal and rehabilitation were amended and the concept of 'urban regeneration' was introduced into Turkish urban planning legislation. The new legislative amendments were the Metropolitan Municipality Law No. 5216, the Municipality Law No. 2985 and laws on the rehabilitation and restoration of historical and cultural assets in historical sites No. 5226 and No, 5366 (Özdemir 2011: 1105f). As a result, solutions to the problem of informal housing areas were confined merely to clearance and renewal, which is clearly exemplified in TOKI's description of its aim:

*...to renew the poor neighbourhoods in cities, to transform some parts of the cities and city centres to accommodate them to the changing needs of the day, and to clear and rebuild houses which are deteriorating and build new houses in their place (Bayraktar 2007: 45; Özdemir 2011: 1105).*

This reduces urban regeneration solely to its physical aspects of demolition and rebuilding, while excluding issues of participation or the adoption of integrated policies. This was done without acknowledging the related social and economic concerns such as community participation or empowerment (see AGFE 2009; Kuyucu 2013). As both Keyder (2005) and Kuyucu (2013) argued, the legislative reforms aimed at the housing market and urban governance can best be understood as the creation of a new real estate system – adhering to market principles rather than the populist urban regime in place until 2002. The crucial mechanisms to that end are the large-scale projects that aim to rebuild informal settlements and relocate their inhabitants in formal housing, or Urban Transformation Projects (UTPs) as they became to be known in Turkey.

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<sup>24</sup> After its establishment in 1984, as a result of the enactment of the Mass Housing Law (No. 2985) the same year that aimed at providing subsidised housing for low-income groups, TOKI failed in its attempt to achieve its intended aim. The few houses that were built in the first twenty years of TOKI's existence benefitted middle- and upper-middle income groups that were not in need of subsidised housing (Özdemir 2011).

The reforms of the AKP made this approach of dealing with the informal settlements widely popular for municipal governments and by 2010 more than 175 municipalities had signed protocols with TOKI to redevelop these 'unhealthy' areas (Kuyucu 2013: 5).

### Official arguments for Urban Transformation Projects

The rhetoric adopted by the Department of the Prime Ministry and TOKI to justify the renewal projects in informal settlements was very hostile. Migrants are now regarded as invaders of public property and beneficiaries of unfair privileges (Keyder 2005: 130). This became quite clear from a speech by the still current Prime Minister, Recep Tayyip Erdogan, at the First Housing Convention in 2006:

*Our biggest ideal was to eradicate the gecekondu that have surrounded our cities like a tumour (...) now we are fulfilling that ideal, and we have to accomplish this goal all over Turkey (Kuyucu 2013: 15).*

According to this medical analogy by the PM, informal settlements should be surgically removed through UTPs as they are an external obstacle to successful urbanisation and economic growth. The informal settlements were portrayed as a space of crime and social inadequacy, which is likewise reflected in the rhetoric of Erdogan Bayraktar, the former executive director of TOKI and the current minister of Environment and Urban Planning:

*Today, the gecekondu is one of the most important two or three problems that Turkey faces. It is well known that such things as terror, drugs, psychological negativity, health problems and oppositional views all come out of gecekondu zones and irregular areas. For this reason, a Turkey that wants to integrate with the world, that wants to join the European Union, must rid itself of illegal dwellings... Turkey cannot speak of development without solving the gecekondu problem<sup>25</sup> (Cited in Lovering & Turkmen 2011: 82).*

The importance placed on solving the 'gecekondu problem' is seen as an impediment to economic development. The question of *whose* economic development asserts that it is not targeting the ones living in informal tenure arrangements. This constitutes a clear shift on the perception from one that supported the *use rights* of the first migrants to one that solely focusses on the *profit rights*. The difficulty is then to assess who and on what bases these rights should be claimed.

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<sup>25</sup> Statement by Erdogan Bayraktar in 2007 to the Urban Regeneration and Real Estate Investment Conference organised by the Urban Land Institute.

A key question in this regard is whether the urban transformation projects create *affordable* formal housing for low-income groups that can be regarded as a viable alternative to the informal housing market. From a rational urban planning viewpoint the provision of affordable housing for low-income groups is both a necessity as well as a major challenge. Social housing<sup>26</sup> do not exist in Turkey and social housing policy is generally associated with the delivery of mass housing projects through TOKI (Elliot 2010: 22).

From an economic point of view, the problem with these mass housing projects is that low-income families generally cannot afford this type of housing. On the other hand, as Turk and Altes (2010) suggest, the economic rational affecting decisions for providing low-income housing are faced with several important constrains. These are related to the low economic returns for the providers of social housing including rental incomes. This in turn requires low land prices for development and the effects of social housing on other residential land values create further obstacles when negotiating land provisions for social housing (Turk & Altes 2010: 3).

This shows that it is quite challenging to provide formal housing for low-income groups, which at the same time ensures a profitable return to please investors. As TOKI is in charge of this task it is however unfortunate to see them adhering more to the investors' considerations than to the low-income groups they were intended to serve. The reform of TOKI empowered it to become a hydride entity on the housing market acting both as a regulator that could secure land for redevelopment as well as an investor with the aim to acquire capital for further investments. The monopoly enjoyed by TOKI seems to have side-lined its initial goal to provide affordable housing for the low-income population with the expectations of a new class of urban speculators. In this regard it is important to support this claim with some evidence. As TOKI does not provide any statistics<sup>27</sup> on which income-group their projects aim at, we have to use secondary sources. Here Yilmaz (2012: 41) reveals that TOKI countrywide had built 282,000 residential homes countrywide, but only 20,000 or around 7% of these have targeted low-income groups. She stresses that the result is even more serious when looking at Istanbul where only 850 or 1.3% out of 64,000 homes were housing low income families. In a similar vein, research by Akin and Ozdemir (2010) revealed that since 2009, 90% of the houses produced by TOKI in Turkey were for middle- and high-income groups (Ozdemir 2011: 1111).

As highlighted by Unsal (2009) Turk & Altes (2010) and others, one of the main critiques of the idea behind TOKI is that the main driver behind the mass housing and urban transformation projects seems to be to boost the economy via the construction of mass housing rather than the improvement and

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<sup>26</sup> Municipal owned subsidised rental homes (see Elliott 2010)

<sup>27</sup> See [www.toki.gov.tr](http://www.toki.gov.tr)

securitisation of urban life quality of lower income groups by ensuring affordable housing. Turkun (2011: 71) stresses that the political correct discourse on governance and participation is only an 'illusion' that must bow its head to the top-down governance by a powerful elite coalition of central and local governments, large-scale developers and landlords. The citizens of informal settlements affected by these urban transformation projects are excluded from the decision-making processes and met with strict zero-tolerance policies towards urban grassroots movements (Ibid: 70).

From the above analysis it can be seen that the general tendency that formal patterns of housing provision serve higher income groups and that lower income groups must rely on the informal sector has not been broken by attempts to develop a formal system of the provisioning of housing through specialised institutions.

### **The Current Urban Planning Structure**

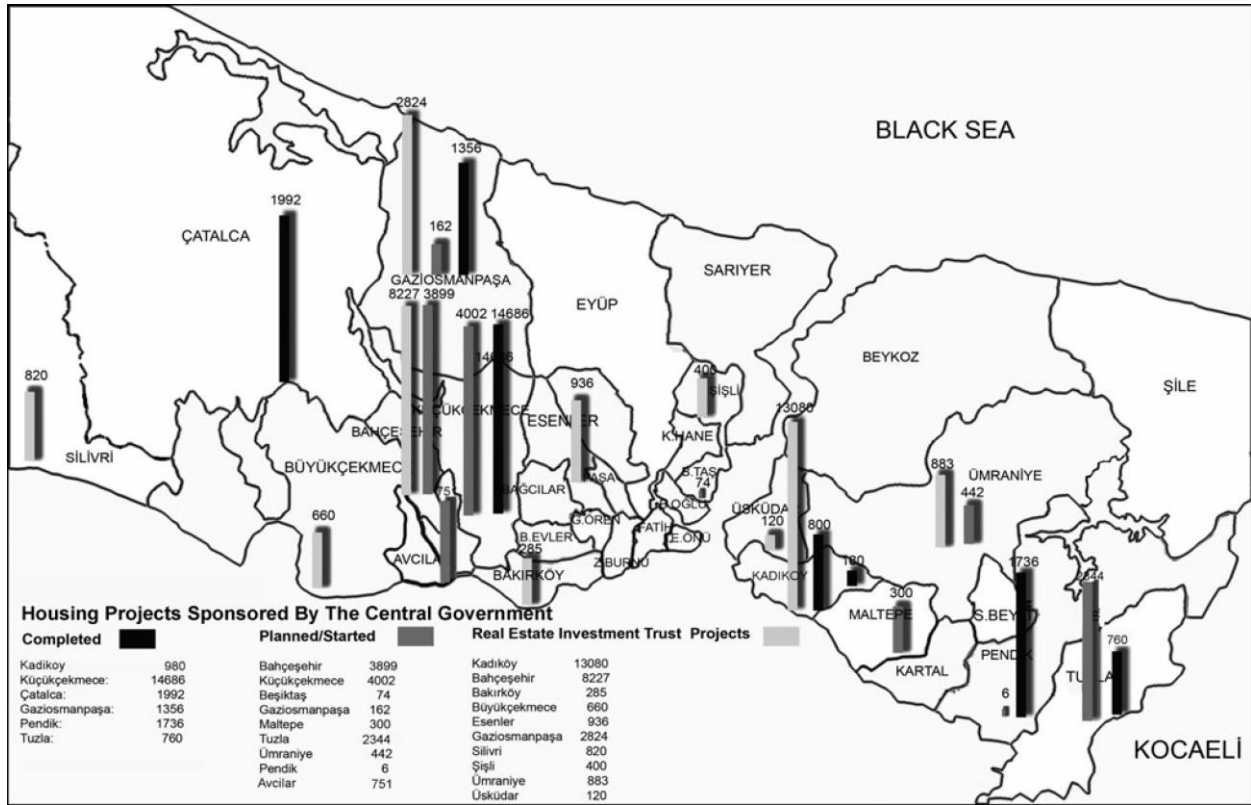
The current structure of Istanbul's urban administration consists of the metropolitan municipality, the district and local municipalities. The metropolitan administration of Istanbul follows the "*powerful mayor and weak council model*" (Erder 2009: 1), which enables a wide and non-transparent arena for macro-level decision-making. Therefore decisions on city development are discussed and criticised in media and academic circles only after they have been made, which fuels rumours and complaints about corruption, judicial and technical inadequacies, and the anti-democratic nature of the decision-making processes (Ibid). The strategies devised for the urban development process is determined by master planning prepared by the IMM, which sets the overall aims and goals. The local municipalities create structure plans that are to follow the overall strategies set in the master plan. With the overall aim to make Istanbul a global city of finance and services, the planning process is highly focused on land-use oriented decisions (Erder 2009).

The Mass Housing Administration (TOKI) and Istanbul Metropolitan Municipality (IMM) declared in 2007 that they plan to demolish and rebuild 1 million buildings in Istanbul and another 200,000 buildings will be repaired and reinforced. The demolition will take place in phases, however the areas, which are located in the high-risk earthquake zones<sup>28</sup> will be prioritised.

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<sup>28</sup> Zeytinburnu, Kucukcekmece are on top of the list, together with Maltepe, Kartal, Gaziosmanpasa, Fatih, Beyoglu, Bagcilar and Gungoren (Turkish Daily News 15/11/2007).

Figure 7: Distribution of urban transformation projects in Istanbul sponsored by TOKI as of 2008



Source: figure by Özdemir (2011: 1109), data compiled from TOKI's homepage in June 2008

Figure 7 shows the number of housing units planned, built and completed by TOKI and its partnerships with Emlak GYO (Real Estate Investment Trust) in Istanbul<sup>29</sup>. TOKI's share in housing construction jumped from 0.6% in 1984 to 24.7% in 2004 and in Istanbul alone it has constructed 50,183 housing units (Candan & Kolluoglu 2008: 17). The extent of this urban transformation frenzy is truly significant and the AGFE report (2009: 29) estimates the number of affected low- and middle income residents to be between 8 and 10 million in Istanbul alone. This would account to 60-70 % of the entire population of the city. Between 2002 and 2009 the AGFE mission estimated that approximately 80,000 people had been directly affected by the urban renewal projects of which 12,730 people<sup>30</sup> had already had their homes destroyed.

Kilinc et al (2012) who studied ethical issues in urban planning in Turkey finds that 'rent' has been at the centre of unethical planning policies and practices. Through in-depth interviews with planners they learn that significant time is spend on land development issues in metropolitan municipalities. They

<sup>29</sup> Emlak GYO is a real-estate development company and is the largest subsidiary of TOKI. 39% of the company was owned by TOKI and 61% by TOKI beneficiaries until 2009, where after TOKI's share increased to 99%. (see <http://www.toki.gov.tr> under 'Affiliates')

<sup>30</sup> the areas of Ayazma, Tepeustu, Kucukbakkalkoy and Sulukule

stress that development plans and plan modifications are the main tools for local governments to produce and market land without extra costs in urban areas. In turn, this can be utilized as a huge source of profit for those who can successfully pressure local authorities, either through formal or informal channels. This is very much in line with Krueckeberg's (1995: 301) statement on the central concepts in planning being land use or private property related. Seeing 'rent' not as a negative but as a given element in the modern capitalist society, it becomes a natural arena of conflicts over its access and its potentials. Krueckeberg (1995) argues for a change in urban planning research, which stresses an epistemology that asks to 'whom do things belong' instead of 'where do things belong'. The focal point of his analysis is the difference between use rights and profit rights. The critique is aiming at classical economic theory, which views property rights as an economic good rather than a question of who uses it. The question of use and/or profit of property is paramount in the discussion of property legalisation and its effects on secure tenure.

Here land-use planning places a central role as it is the tool, which asserts the usage of land and changes to it are based on political decisions. Plan amendment in Istanbul are the highest in Turkey and have increased rapidly in the last decade. According to Turk and Altes (2010b) 400 changes were made during the 1980s, 450 during the 1990s, 850 in the early 2000s, and 3800 from 2006 to 2010. In most cases the subject of the changes were in order to increase construction rights from service functions (parks, vacant treasury land) to residence or trade functions, or to increase of floor area coefficient (Altin & Turk 2005; Turk & Altes 2010b: 10). They note that the value of properties increase with the changed zoning or construction regulations. In line with the increased focus on large-scale infrastructure and housing projects, these plan amendments are the legal regulation of possibilities for profit. Turkun (2011) analysed the changing power dynamics of 'urban coalitions' in Istanbul and observes that central and local authorities, in conjuncture with legislative and administrative reforms, now have become part of the market-oriented discourse driven by increasing land rents and real-estate development (Ibid: 62). He argues that the new urban planning discourse in Istanbul is centred on creating "high rent-gaining" spaces resulting in pressures for redevelopment of low-rent informal housing areas. This is supported by many other scholars (see for example: Keyder 2005, Lovering & Turkment 2011, Scoppetta 2011, Kuyucu 2013).

Notably Keyder (2005: 130) argues that "*formerly populist politicians now respond to these market-mediated demands rather than to a potential constituency of new immigrants*". Keyder (2005: 130) further argues that the legalisation of public land by public authorities and the subsequent sale to private construction firms for redevelopment is "*not, however, to make the market work, but for its fiscal needs*". As discussed in the previous chapter, the consequences of the market oriented policies adopted during the last decade together with the increased impacts of the urbanisation of capital in the property



markets, the megacity of Istanbul has turned into a lucrative commodity. The institutionalisation of informality within the formal structures and the creation of overlapping institutional layers affecting land use, makes this arrangement a situation of increased insecurity for those without legal titles.

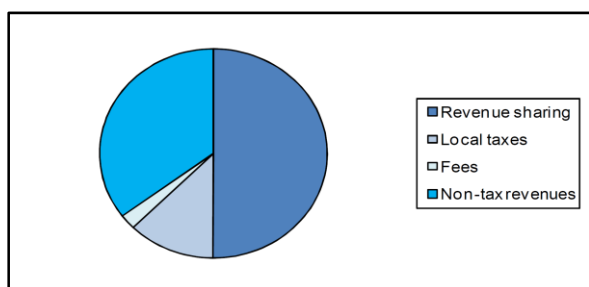
The legislation of the previous populist era emphasised ‘inclusion’ and ‘upgrading’ for the gecekondu settlements and provided *de facto* rights over their lands. Even though clientelist informal relations were a strategic tool in the hands of state officials and their informal networks, looking at it from affordability criteria intrinsic to the ‘rights to shelter’, this arrangement seemed to benefit those who could not directly capitalise on these networks. However, they had access to affordable housing within the housing market of informal settlements.

This has now been replaced with the policies of urban transformation initiated by the Mass Housing Administration (TOKI) empowered by the Laws No. 5366 and 5393. The informal settlements were increasingly faced with the ‘bulldozer mentality’ of local authorities (Loving & Turkmen 2011), who had changed their allegiance to capital intensive restructuring paving the way for luxury housing and shopping malls (Keyder 2005).

### Fiscal Dependencies of Local Governments

The most important source of finance for local governments comes from the allocation of central tax revenues (revenue share), which is distributed by the central government based on criteria of population. Under the current revenue sharing arrangement 50% of municipal revenues comes from this scheme. The fact that the amount of revenue sharing is dependent on the registered population in a municipality can be said to have great importance for residents in informal housing. In the previous

Figure 8 Composition of municipal revenues (2002)



Source: OECD (2009: 209-210)

The local governments have limited fiscal autonomy as they cannot raise taxes beyond the rather strict levels determined by the central government, with a share of total public spending<sup>31</sup> of only 9.5% (OECD 2004c: OECD 2009: 214). The review stresses that this makes it more difficult for the local administrations to respond to the needs of its citizens and firms. As they have no flexibility to collect revenues the consequence is that municipalities are bending the rules to obtain more revenues – notable via a valuation of property (OECD 2009: 212-213). Without going into specifics on what bending the rules implies, the key aspect is related to property tax. Although the metropolitan municipality can set the property tax<sup>32</sup> twice as high as the lower level municipalities, it cannot tax a large portion of the population to which it provides services, due to the illegality of the dwellings. From an economic point of view, this creates a strong incentive to formalise these areas.

As highlighted previously, the importance of the municipality reforms in 1980s gave way to greater decentralisation of powers to the local governments. However when looking at the fiscal dependency of the local governments towards the central government, it seems that we have to acknowledge the still centralised character of this arrangement. As Leitmann & Baharoglu (1998) note, the fact that local governments are financially dependent on the amount of residents within their constituency and politically dependent on their re-election, hence have to provide for their needs,

## Planning Objectives

The territorial review of Istanbul conducted and published by the OECD<sup>33</sup> (2009) in collaboration with the State Planning Organisation<sup>34</sup> of Turkey and the Istanbul Metropolitan Municipality (IMM) gives valuable insights into the challenges of the city and policy recommendations. As stated in the review, policy makers at all levels of the government share the vision of Istanbul becoming “*a major economic centre and the central node for international trade flows*” (OECD: 14). The report further highlights ‘important negative externalities’<sup>35</sup> that challenges the ‘pro-growth strategy’ created as a result of rapid urbanisation. Here the report especially highlights that “*stopping uncontrolled land use development is probable one of the most challenging spatial issues in Istanbul*” (Ibid: 20-22). The informal settlements,

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<sup>31</sup> According to OECD review (2009: 210) Canada had 46% and Denmark had 33% in 2007 in comparison.

<sup>32</sup> The real property tax returns are filed every four years and is taxed according to the purchase / sale value. Annual property tax rates are 0.1 % for residential buildings. For property located in the metropolitan municipalities the rates are doubled (Real Property Investment Law in Turkey, March 2007; Elliot 2010: 39)

<sup>33</sup> Organization for Economic Cooperation and Development

<sup>34</sup> Accessible from Ministry of Development at [www.mod.gov.tr](http://www.mod.gov.tr)

<sup>35</sup> The negative externalities mentioned are transport congestion, uncontrolled land use development and environmental risks. See OECD (2008: 20) for further elaboration.

gecekondu as well as unauthorised subdivisions of low-income families, are of main concern as they estimated to constitute more than 50% of the population (Ibid). What is less in focus in the report, but mentioned as a passive comment, is that there are also illegally owned lands that hold skyscrapers and luxury villas. These are not highlighted as problematic, but as Roy and AlSayyad (2002) notably reminds us is: *“If in earlier phases of development, urban informality was located primarily on public land and practiced in public space, now we can also talk about the privatisation of informality”* (Roy & AlSayyad 2002: 4).

Around the world we have seen an unprecedented growth in real estate investments and construction activities, especially in developing countries. The relationship between construction sector and economy is widely accepted as a possible engine that can trigger short-term economic growth due to its strong linkages with other sectors (Baladan 2012). The construction boom, whether formal or informal, can likewise have negative spatial and environmental impacts such as intensification of environmental deterioration through pollution, urban sprawl and destruction of vegetation (Altinok & Cengiz 2008, Terzi & Bolen 2009, Baladan 2012). Considering the environmental impacts of the unplanned expansion of informal settlements in the peripheries in Istanbul there seems to be a general consensus among Turkish environmental scientists (see e.g. Musaoglu et al 2005, Tezer et al 2012) that the uncontrolled urbanisation have had a negative impact on the water resources of the city due to urban sprawl and consequently pollution. Likewise, Karaburun et al (2010) and Geymen and Baz (2008) conclude that the rapid, uncontrolled and illegal urbanisation has led to the degradation of forests in the metropolitan area. Importance of urban infrastructure such as highways and bridges are likewise a determining factor for the location of industrial and manufacturing zones as well as the location for low-income informal settlements that mostly are employed in these sectors (Geymen 2011).

The illegal urbanisation, which manifests itself in informal settlements, is not only an act of low-income groups, as often portrait, but has been a way by all social groups and interests to circumvent the often tiresome regulations. And as Baladan (2012) states, the formal and regulated construction of housing with TOKI in front, has also shown not to take environmental considerations too serious. In a similar vein Turk and Altes (2010a) show that TOKI often chooses to build on available treasury land, due to the low costs and easy access. Not having to evict and resettle large portion of residents makes it a viable alternative that however in some cases had proven to clash with other plans, such as protection of forests (Turk & Altes 2010a). Therefore the environmental aspects should rather be considered a general failure of public authorities to coordinate construction and environmental protection as a result of overlapping authority and plans, and the legal ambiguities in loose regulations.

Without going further into details about these studies it can however be seen as an important argument for the “ordering” principle in the urban planning discourse (Krueckeberg 1995). Not being able to plan, hence deliver services as well as prevent occupation of environmentally sensitive land is not a favourable condition for a planning office that has to deal with the consequences. Considering the very valid earthquake risk in Istanbul it can be seen as another argument for regulating the spread of informal settlements as well as implementing building standards for the sake of the inhabitants. What these examples show is that an urban planning rationality naturally seeks to address the unplanned nature of the informal settlements for the purpose of protecting ‘the common good’. What can be seen from the analysis is that focus on earthquake, overpopulation, crime creates a sense of urgency and intervention. Here urban transformation projects emerge as the only possible solution for these urban problems and therefore justified.

### **Review of the legal framework of Urban Transformation Projects**

With the Law 5162 implemented in 2004, TOKI became the agent for making expropriations and development plans in the areas of urban transformation in gecekondu settlements. According to article 2 in this law, TOKI has the right to make and to amend all kinds of development plans. These plans can either be approved or amended by local authorities and thus come into force. The Municipality Law of 1984 was amended with law No. 5393 in 2005 which provided municipalities with the right to form partnerships with TOKI and implement Urban Transformation Projects (UTPs) in gecekondu areas. However, this law does also provide an opportunity for the public authorities to evict not only gecekondu settlements but also middle-income settlements, which have legal titles, yet violate occupation or construction regulations (AGFE 2009).

The local municipality selects the land to be redeveloped; TOKI undertakes the construction and communities are relocated if accepted as beneficiaries. If not, they are left to the streets (Ibid: 14). The above listing of legislatives changes in recent years have greatly increased the powers and authority of TOKI, which does not come without criticism:

*The fact that TOKI has such vast powers to intervene into real-estate markets by either building for-profit housing units or by clearing existing low-income neighbourhoods is generating strong criticism among professional chambers, NGOs, academics and also among private construction firms (AGFE 2009: 16).*

As outlined in the AGFE report, these criticisms build on three arguments. First, the new legal, financial and administrative powers that TOKI has acquired have turned it into a powerful institution directly at the service of the executive branch of the government. Secondly, TOKI is using public authority and public resources not to provide affordable housing to lower classes (i.e. public good) but to open up profitable investment areas either for the state or for selected private developers (i.e. private interests). The third criticism states that urban transformation projects clear densely populated low-income neighbourhoods by forcefully displacing the poor from their living quarters, transferring their property to more wealthy groups and thereby are creating concentrated zones of poverty that are rapidly acquiring 'ghetto-like' characteristics.

In the AGFE report it is stated that "*the predominant tendency is to define the renewal project by giving reference only to the physical structure without any regard for the social dimension*" (AGFE 2009: 18). The Law No. 5366 defines the regeneration area only in reference of architectural projects.

A critical point is that the law does not define any principles for the participation of the local residents in the decision-making processes concerning the future of their neighbourhoods. Instead the district municipality is mentioned as the only dominant actor who decides the location of the renewal area, the procedures and the implementation of the projects. As there is no mentioning of concepts such as participation, governance or transparency in the law the municipality has no legal obligation to take the affected communities into account in the decision-making process (AGFE 2009: 18). Similarly, Dincer (2007) argues that *participation* is reduced to informing communities and interest groups without prior consultation or consensus-seeking efforts (Dincer 2007; Ozdemir 2011: 1109). As Erder highlights (2009) possibilities for open participation remain limited but clientelist ties are widespread. This suggests an exclusive process that is based on top-down decision-making with clientelist favouritism.

The AGFE report highlights the expropriation procedures as the most problematic aspect of the law. Here the public authorities should first seek to reach an agreement with the property owners, yet if the parties do not come to an agreement then the local authority has the power to expropriate the property as defined in the Expropriation Law No. 2942. Therefore the property owners in a renewal area have only two options. They can either be a partner of the renewal project or to sell his property to the authority. The property owners do not have the right to say "no thanks" and in case they do not come to an agreement the municipality has the full right of expropriate the property. This aspect is of great concern to most low-income residents.

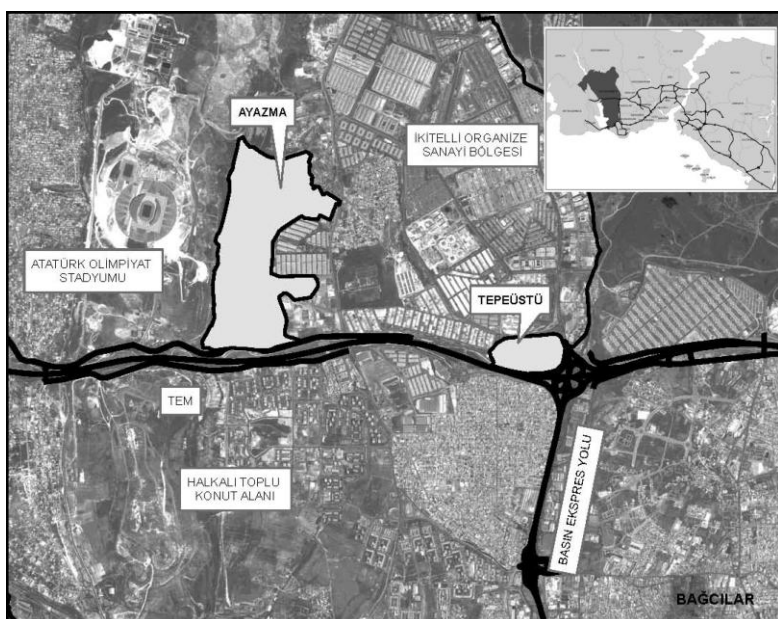
As already discussed, the renewal projects Istanbul are aiming at higher income groups and the prices of the new apartments are always increasing in value. The property owner has the right to become a partner in the project, yet has to pay the difference between the estimated value of his/her former

property and the new one, which for most is out of proportion. This process is by the AGFE mission categorised as a “latent forced eviction” as it leaves the former owner only with the option to sell the property to the price set by the authorities.

## Chapter 5: The Urban Transformation of Ayazma – From Gecekondu to Mass Housing

Ayazma was a gecekondu neighbourhood located in the north-western edge of the European side of Istanbul in the Municipality of Küçükçekmece (MoK) from where around 1.930 households, or 7.800 people, were relocated to the mass housing complex of Bezirganbahçe in 2006.

Figure 9: The informal settlements of Ayazma



Source: Turgut & Ceylan (2009: 30)

The dwellings were illegally built on land of the Treasury in the 1980s by Kurdish migrants and were comprised of single-flat houses with small gardens for personal use (Turgut & Ceylan 2012). Compared to many other gecekondu settlements in Istanbul, Ayazma was a late and poor settlement. As Kuyucu (2013) explains, the establishment of Ayazma foremost in the end of 1980s and 1990s resulted in that they did not benefit from the amnesties that other gecekondu benefitted from between 1960s and 1980s. The Kurdish migrants, who came to the cities in the mid-80s, were mainly ‘forced migrants’ due to the armed conflict that erupted between the PKK and the Turkish state in 1985. This ‘second wave’ of migrants were faced with a different welcome than previous migrants and found themselves at the lowest rank in the urban social hierarchy (Keyder 2005). Consequently they tended to develop dense and supportive social networks on which they could rely for housing and jobs in the informal sector (Lovering & Turkmen 2011). The research of Kuyucu (2013) shows that the first migrants in the neighbourhood managed to obtain a title deed for the land they had occupied. As discussed previously,

this was the main source of economic security and the chance for upward-mobility for the squatters in Turkey as it allowed them to rent out to newcomers (Pinacioglu & Isik 2008). This also created a hierarchical market structure that disproportionately benefitted the more economically resourceful and better politically connected inhabitants.

According to a household survey<sup>36</sup> in 2004 carried out by Sirma R. Turgut, with a background in architecture and planning, and Eda C. Ceylan, who works at Kucukcekmece Municipality Planning Department, (2012), 22% of the houses were built between 1987 and 1992, 47% were built between 1993 and 1998, and 20% were built between 1999 and 2004. As the reason for choosing Ayazma, 55% of the households stated that they selected the area because of its closeness to employment and 31% to be close to their relatives (Turgut & Ceylan 2012: 42). The mushrooming of the industrial sector within the boundaries of Kucukcekmece municipality created significant employment opportunities from the 1980s onwards. After the opening of the Trans European Motorway (TEM), the area saw many new industries emerge, the most important one being the Ikitelli Industrial Zone located north of the TEM, with textile and manufacturing as the primary branches. This also led to a rapid increase in the population in the area, which found residence in informal housing in Ayazma and informal jobs in nearby industry (Turgut & Ceylan 2012).

Prior to the redevelopment process a study by *The Symposium on International Urban Regeneration* was carried out in Ayazma in 2004 (See Turgut & Ceylan 2012). This included a detailed household survey, which gives us a clear picture of the socio-economic situation and their perception towards their neighbourhood and the homeownership patterns. The survey concluded that among all households 43% of them used one third of their income for food and 28% used half of income for food. Considering the tenants, 58% paid one third and 32% paid one fourth of their monthly income for rent ranging from TL 50 to 150. Among the families in Ayazma it was common that only the head of the household, the male, was employed.

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<sup>36</sup> According to Turgut & Ceylan (2012) the household survey carried out in September 2004 had a 100% sampling rate.



Table 2: Tenure status and service provisions for Ayazma residents in 2004

Category	Sub-Category	# Households	Percentage (%)
Tenure status	Unauthorised subdivision with title deed ( <i>hisseli tapu</i> )	900	46.6
	No title deed ( <i>gecekondu</i> )	900	46.6
	Tenants	130	6.8
Access to public services	Electricity	1930	100
	Water supply	1795	93
	Heating	1930	100
Amenities	Kitchen	1872	97
	WC	1930	100

Source: Table by author, data from Turgut & Ceylan (2012: 42)

Citing a study conducted in 2009 by the municipality in Kucukcekmece, Turgut & Ceylan (2012) states that only 15 %, or 6,600 out of 44,400 buildings had permits and that since 2004 all new constructions, approximately 8,000 in the period 2004-2009, were carried out with construction permits, consequently ending an era of informal land appropriation. The AGFE report (2009: 26) stated that in 2006 Ayazma consisted of 1930 households, of which 900 families had title deeds, 900 families had no title deeds and 130 families were tenants, yet none of them had permissions to build on the land, and therefore were considered illegal.

### The official arguments for the project

The mayor of Kucukcekmece described his vision on the municipality's website as follows: *"to be a home for happy people and the centre of attraction for the world, having completed its urban transformation projects, to host the Olympics, with its lake, sea, forest and all sorts of social utilities"* (Candan & Kolluoglu 2008: 20). This mirrors the official argument in the protocol for the urban transformation project implemented in Ayazma: *"Urban Designing Projects and Development Plans to be realised in Ayazma Region shall be integrated with Olympics Village, Congress Valley and Recreation Areas Projects"* (Article 6 in the Protocol; in Turgut & Ceylan 2012: 36).

The fact that Ayazma was located right next to the Olympic Stadium made it an obvious target for redevelopment with great potential for capitalising on increasing land rents. As Candan & Kolluoglu (2008: 21) notes, similar projects were carried out in Istanbul before high profile international events

such as hosting a Formula 1 track in 2005 and, ironically, the HABITAT II conference 1996. This 'cleaning-up' of 'unhealthy' informal settlements was also noted by Davis (2006) in his book "*Planet of Slums*":

*In the urban Third World, poor people dread high-profile international events... that prompt authorities to launch crusades to clean up the city: slum-dwellers know that they are the "dirt" or "blight" that their governments prefer the world not to see (Davis 2006: 104).*

Turgut & Ceylan (2012) adopt a critical stance towards the informal settlements by highlighting the "illegality" of the residents and the environmental consequences to the Kucukcekmece Lake due to pollution stemming from unplanned and underserviced urbanisation. Their urban planning perspective favours the redevelopment of the residents of Ayazma from the rationality of 'regulating the unregulated'. This is reflected in their emphasis on the success of the urban transformation project adhering to official regulations. They portray the Ayazma neighbourhood as having "*no facilities, are without infrastructure and experience social isolation*" (Turgut & Ceylan 2012: 34). It is not clear from their claims as to how this is materialised, nor how or for whom this constitutes a problem. However, they present the main target of the urban transformation as a way to "*overcome physical and social problems while creating a healthy and modern area, considering their [the inhabitants'] needs and ensuring continuity of the community*" (Ibid: 34).

The major argument for the UTP therefore, apart from the formal status of illegality of the dwellers, is the unplanned nature of the neighbourhood, their isolation and associated social problems. Again the argument is vague and not supported by any further depth as to how this is unfolded. However, in the local expert study to the AGFE mission, Cihan U. Baysal (2009: 5) clarifies the issue as 'socially problematic' by arguing that the local authorities labelled the Kurdish neighbourhood of Ayazma as 'terrorist groups' or 'groups in collaboration with PKK<sup>37</sup>' as a way to legitimise the UTP. Another argument for the UTP is the building safety aspect, which gained a very valid basis after the Marmara earthquake in 1999 that cost around 18,000 lives in Istanbul and the surrounding region. This depicts the current discourse among planners and politicians with the focus on "illegality", "unhealthy" and "unsafe" as a means for implementing urban transformation projects.

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<sup>37</sup> PKK is the acronym of the Kurdish Worker's Party, which since 1984 is regarded as a political and militant organization that is in armed conflict with the Turkish state to achieve cultural and political rights, as well as self-determination for the Kurds in South-Eastern Turkey.

## Legalisation and Determining Ownership

The Ayazma Urban Transformation Project (UTP) was the first such project in Istanbul (Lovering & Turkment 2011). A protocol was signed between TOKI, Istanbul Metropolitan Municipality (IMM) and the Municipality of Kucukcekmece (MoK) in June 2004, and under the direction of the MoK, Ayazma was declared an urban transformation area in July 2005. This came right after the passage of the new municipality law in 2005, one year after the AKP had secured decisive victories in both IMM and MoK.

During the process of the project, the IMM represented the obligations of the central administration, TOKI was responsible for the provision of funding and the construction process of the new high-rise buildings where the Ayazma residents should be resettled to as well as redeveloping the former Ayazma site. The MoK was responsible for the demolition process of the *gecekondu* (Turgut & Ceylan 2012).

Defining the ownership of residents became the challenging point for the informal dwellers in Ayazma. The category of rightful ownership was broadly defined to include all non-tenant households. The formal deed holders were to receive full compensation for their land and the full demolition value<sup>38</sup> of their houses, while the *tapu tahsis* holders were to get partial compensation for their land and the full demolition value of their *gecekondu*s. The illegal occupiers only received the demolition value and the tenants were not included at all. This shows the ambiguous position of the state in such matters, who at the same time deny and accept the rights of the illegal occupiers.

Kuyucu (2013) provides a clear reasoning of the problem in the Turkish case. He points out that the process of determining the rightful owners intensifies the pre-existing inequalities of the *gecekondu* market by taking the existing flexible property structure as a given, thereby fixing the categories in time and space. This means that the advantaged sections of the market extend their gains while the disadvantaged ones become further dispossessed (Kuyucu 2013: 13). Based on Kuyucu's (2013) empirical data from his research it is possible to address the economic implications of the relocation process and the inherent challenges of the residents imposed by this. The formal units in Bezirganbahçe were priced at TL 52,000 (USD 35,900)<sup>39</sup> – a person owning one *gecekondu* became entitled to one apartment to be paid over 15 years after the deduction of the demolition value. The owner of a house measuring 90m<sup>2</sup> judged to have incurred depreciation of 25% received about TL 13,000 from the government. If this person agreed to buy a subsidized TOKI unit, he became indebted to the state for

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<sup>38</sup> The demolition price was determined by multiplying the total m<sup>2</sup> of the *gecekondu* with the standard construction unit price and then subtracting from this amount a certain percentage for 'wear and tear', determined by an 'independent commission' comprising of two officials from the municipality and one from TOKI (Kuyucu 2013: 13)

<sup>39</sup> 1 Turkish Lira = 0.689 US Dollar (2006 average): The calculation is rounded up for sake of simplicity. Taken from [www.xrates.com](http://www.xrates.com), note: recently we have seen a depreciation: 1 TL = 0.436 USD 24. January 2014

around TL 39,000. If this person earned the minimum wage of TL 540 (USD 370) per month in 2006 he had to pay approximately 40% of his income just to cover the monthly instalments and around 20% to cover the building maintenance and utility bills. It is clear that under the above mentioned circumstances it is extremely difficult for families who only have one breadwinner to make ends meet. According to Turgut & Ceylan (2012) such families constituted 63% of all households in Ayazma.

This clearly shows that those with *only* one house are very likely to lose their new property and thereby are forced to leave the area to find another place to live. The project has been portrayed by local authorities and others (Turgut & Ceylan 2012) as a great opportunity for illegal gecekondu residents to obtain a formal title deed. This can only be said of those who had more dwellings prior to the resettlement, who in turn became eligible for multiple units in the new project. As the market price of the new units have increased quite significantly over the years since they were built, it has been a lucrative development for those who could afford it. What is clear is that the majority of the former gecekondu dwellers did not own multiple units and so could not benefit from the increase of the value of the new flats in Beziganbahce.

Considering the huge difference in economic prospects that the ownership of one or multiple gecekondu houses provide for the residents, it is not difficult to guess that those with multiple houses were easier to persuade and to reach an agreement with the authorities. As Kuyucu's (2013: 14) analysis shows, those who owned multiple houses and/ or had a formal title deed were the first to accept the project terms. Through various interviews he argues that these initial deals were the reason why the project could be implemented in the first place. The rest of the inhabitants on the other hand felt pressured to follow suit. This can be explained with the lack of tenure security for most of Ayazma's inhabitants, which realised their weak bargaining position when faced with threats of the authorities. One of Kuyucu's (2013: 15) interviewees explained that *"everybody was sold out. The municipality appropriated the neighbourhood from us for nothing by breaking our unity [by] using these apartments they out to certain people"* (Interviewee of Kuyucu, 2013: 15). The former resident believed that once some people took the deal, the appetite for private gain broke the resistance that had formed and which resulted in that almost all the inhabitants of Ayazma signed up to the deal. The prospects of owning multiple units in the new project broke the collective resistance. The important point is here, as noted by Kuyucu (2013: 16), that it was the structure of the flexible gecekondu regime that allowed such manipulations.

The authorities effectively pacified the collective resistance in Ayazma by utilising the legal loopholes and selectively rewarded certain residents. Consequently the 'rational' resident responded by trying to maximise personal gain. The others followed suit out of ambition towards possible personal gain and fear of losing everything. This collective action problem resulted in the disintegration of the already

weak resistance movement, which led to the implementation of the project and the demolition of the neighbourhood.

### The tenants of Ayazma

The tenants of Ayazma, who accounted for 130 families or around 650 people, had been told in the negotiation process that they were 'rightful', yet none were in the end recognised by the MoK. After the demolition of their homes, 42 families remained in the area with hopes of a resolution, the rest left (Lovering & Turkmen 2011: 84). Those who stayed put up tents and built makeshift shacks on top the rubble of their former houses and tried to continue their lives while waiting for a response from the MoK. The survey by Turgut & Ceylan (2012) showed, the former tenants had paid between TL 50 – 150 monthly rent in their former houses and were now unable to find similar cheap accommodation elsewhere. The media would not bring their story in the news according to a live interview of a tenant published by the website<sup>40</sup> of International Alliance of Inhabitants (IAI). The tenant refers to the media, which stated "for your case, there is a censorship" (IAI 2010: min 03:53).

*Picture 1: Two boys walk by a makeshift shack in Ayazma after the demolition*



*Source: Screenshot from the documentary "Ecumenopolis: City Without Limits"*

However, nearly nine months later at the end of 2007 the first response came. 1,000 police officers woke them up at 04:30 in the morning and began to demolish their shacks and tents. This resulted in 24 out of the 48 families giving up, yet 18 remained (Lovering & Turkment 2011). They rebuild their tents once again and after another year in November 2008 they finally gained some support from other civil society organisations and managed to get into the spotlight of the media. Representatives of political parties

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<sup>40</sup> Direct link to the video:

<http://www.habitants.org/spazio degli abitanti organizzati/video/the city is for all/the evicted families of ayazma istanbul> accessed 23.12.2013

came to the area and held speeches, downplaying the situation. According to a tenant, the mayor of Kucukcekmece defended their stance with “we gave the people houses, but they didn’t accept. They prefer to live in their tents.” (IAI 2010: min. 07:10). Consequently the tenants were offered a year of rent support until they would be eligible for an apartment in one of the TOKI houses. However, they discovered that the bank was asking a payment of TL 10,000 – 15,000 (USD 6,900-10,300) as an initial instalment, prior to the monthly instalment of TL 220 over 15 years, which was impossible for all of them to pay (IAI 2010). Consequently the former tenants of Ayazma were left to the streets from 2010 without further support from the MoK.

### **From Informal Gecekondu to Formal Mass Housing**

The Bezirganbahçe mass housing blocks built by Toki consists of 55 blocks each 11 storeys high with 49 apartments of 72m<sup>2</sup>. One of the reasons of the urban transformation project, as mentioned previously, was the bad quality of the houses in Ayazma. In the study of Cihan U. Baysal (2009) we get an insight into the conditions facing the new apartment owners two years after their relocation. He wonders what was wrong with the housing in Ayazma considering the deteriorating quality of the new blocks after being built with obvious “bad quality of the construction materials” resulting in cracked walls and bathrooms dripping to the lower storeys (Baysal 2009: 2). The families of Ayazma on average have 5 children, which makes the apartments in Bezirganbahçe often too small with their 72m<sup>2</sup>, resulting in some families using the kitchen floor as extra bedroom. Apart from longing for their former houses in Ayazma, as 96% of them did (Turgut & Ceylan 2012: 43), the socio-economic realities of the relocation soon kicked in.

*Picture 2: The TOKI blocks in Bezirganbahçe to which the Ayazma residents were moved*



Source: Lovering & Turkmen (2011: 86)

### The socio-economic effects after relocating to Bezirganbahçe

Those families who became eligible to move to the new blocks were requested to pay monthly instalments of TL 220-320 (USD 150-220) for the next 15 years in order to own the formal title deeds of their apartments according to the contract. Living in formal housing also required them to pay a considerable amount of extra expenses contrary to their former informal houses in Ayazma, where they had access to cheap heating facilities with coal or wood. Considering the average income of TL 540-900 per month, there is not much left for other vital needs such as food, healthcare, education or transportation, making it almost impossible for the new residents to sustain a livelihood under these conditions (Kuyucu 2013, Lovering & Ceylan 2011, Baysal 2009, AGFE 2009).

Table 3: Monthly Expenses of Residents in Bezirganbahçe in 2009

Monthly Expenses	Expenses in TL
Instalments to the bank	220 - 320
Maintenance fee	30
Natural Gas	65 summer / 165 winter
Electricity and Water	130
Total expenses	445 - 645

Source: Table by author, data from Baysal (2009:2)

As the Ayazma residents used to work at nearby factories in the Itekelli Industrial Zone located within walking distance to their previous neighbourhood, unemployment was rarely a problem, even though the work was mostly informal, with minimum wages and lacking social security rights. The means of transportation near the new blocks in Bezirganbahçe were insufficient and the distance to the factories to far by foot, resulting in that most of the residents lost their jobs (Baysal 2009:3). Those who still had jobs, transportation took considerable amount of time (had to change 3 different busses) and a considerable amount of their already limited budget. The economic hardship created by the relocation also affected the children, as many parents had decided to take them out of school so they could get an informal job, mostly in factories. According to Baysal (2009), this explains the high drop-out rate of secondary school students from Ayazma. The mounting debts and an increased unemployment rate put great pressure on the new residents resulting in threat of foreclosure. As highlighted in the AGFE report (2009: 26), by 2009 there were 650 families, more than one third of the total residents, which had

already received a 'letter of confiscation' meaning they had not paid their monthly instalments for six months and therefore had to leave their apartments.

## **Partial conclusion**

To conclude, the situation created by the relocation process, as shown above, does not conform to the foresight of poverty alleviation. Rather, we must conclude, it has intensified and changed the face of poverty for a considerable portion of the former gecekondu population. Whereas their previous economic situation could sustain their livelihood in an informal setting with irregular income from jobs in the informal sector, the relocation and legalisation of tenure made livelihoods more difficult to sustain with repayment of their acquired debt. This led AGFE (2009) to conclude that many were facing a second eviction, due to their inability to pay off their loans. The legalisation process thereby regulates the previous irregularity of payments, which makes it difficult for many families to sustain the changed circumstances. While their previous informality had the benefit of accommodating irregularities, i.e. paying when the money was at hand, the legalisation now regulates the payments of loans that do not conform to the changed socio-economic reality of many families. Apart from the fact that minimum wages in informal manufacturing jobs can hardly sustain the regulatory payments of formal housing, the result of losing their informal jobs makes the situation even more precarious.



## Chapter 6: Discussion

This chapter will discuss the main findings of the analysis and draw conclusions.

Rapid urbanisation and the inability of the state to provide affordable formal housing in cities has led to the creation of informal settlements in Turkey. I argue that the emergence of informal settlements was a dynamic interplay between formal and informal institutions, which were reshaped over time to both the benefits and drawbacks of migrants. The benefits were largely related to the *de facto* secure tenure experienced as an outcome of the convergence of the informal and formal institutions creating an environment of possible entry points for the populist practices. With the policy shift in 2004 and the subsequent empowerment of TOKI to undertake urban transformation projects in 'unhealthy' areas, the insecurity embedded in their tenure status became visible. As witnessed in the case of Ayazma, the legalisation of the informal settlements can generate unequal outcomes along the lines of degrees of informality. One of the central issues discussed in this theses, is the one of legalisation and formalisation of tenure in the settlements and the outcomes related to tenure security and affordability. In this regard I will shortly discuss the argumentations for and against legalisation in order to draw general lessons from Turkey.

Most famously tenure legalisation has been popularized by the economist Hernando De Soto (2000), who in his global bestseller, *The Mystery of Capital*, argued that the most important variable in explaining high rates of poverty and economic stagnation in informal settlements of developing countries is the absence of legal protection and certainties for people's informally owned properties. De Soto's argument is based on a macroeconomic account of why the poor are excluded from the potential benefits of globalisation. He states that being part of a globalised world lacking a uniform private property system excludes the poor to be part of the formal economy. According to De Soto (2000: 46) it is "*formal property that provides the proves, the forms and the rules that fix assets in a condition that allows us to realise them as active capital.*"

He sees the virtues of turning the 'dead capital' locked in informal housing into 'live capital' via titling programs, which then can be used as collateral to obtain credit from financial institutions, sell or rent them on the formal market or upgrade them for their own use. According to this legalist view, because of the legal uncertainty that characterizes informal settlements, their inhabitants are unable to undertake any of these economically rational actions that eventually could help them out of poverty.

These essentially legal problems prevent informal inhabitants from realising their entrepreneurial potential which, if unlocked through formal titling, would empower them to dispose of their land in a market context.

This is based on the assumption that a dichotomy exists between formal and informal (Roy 2005) which advocates for a legalisation of titles in order to “free” the “dead capital” inherent in informal settlements, as advocated by De Soto (2000). De Soto (2000) outlines the potential benefits of legalisation of property rights as quite significant as he claims that “*the total value of the real estate held but not legally owned by the poor of the Third World and former communist nations is at least \$9.3 trillion*” (De Soto 2000: 28). A famous passenger on this policy prescription is the World Bank, which emphasizes the “*potentially large benefits from titling*” (World Bank 2006: 165). This trend reflects orthodox policy prescriptions copied from the Western notions of urban planning and need to be seen from new perspective (see Roy 2005, Bromley 2009, Porter 2011).

De Soto’s idea has met heavy criticism among urban scholars who stresses that this legalist perspective perceives informal land tenure as problematic firstly because of the insecurity it brings in legal terms and secondly it is seen as an impediment to development (Assies 2009: 576). Similarly, Roy (2005: 152) views it as very appealing to those interested in market efficiency and to those interested in the distribution of resources. The assumption suggests that communities are harmonious and non-hierarchical entities where there can be consensus regarding resources. Research conducted by Roy (2003) in Calcutta reveals that legalisation can create great internal conflicts for squatter settlements when sorting out legitimate claims. In the case of Ayazma there was no direct conflict within the community, but unlike the notion of a homogenous group, as to Roy’s critique of De Soto, this mainly Kurdish community did not address the transformation project in a coherent and collective manner. The outcome to this, as Kuyucu (2013) states, was the interest-based, often individual utilisation of the tenure statuses.

Payne (2004) also stresses this problem. Unlike developed countries, developing countries often have a system of private property next to other tenure arrangements. By including the informal into the formal private property sphere, i.e. legalisation, either through titling or other means requires defining “who owns what”, which can lead to conflict and exclusion. It is this process of defining the ‘rightful owners’ that is inherently problematic for informal settlements. This has also been visible in the case of Ayazma. As the formal guidelines only takes into account those with a legal title, half of the Ayazma population were excluded from the bargaining round. This led in turn to the disintegration of the community and hence their ability to push for their recognition in the process. This shows that when implementing urban transformation projects through resettlement projects the degree of informality matters.

Whereas the informal housing provided both tenants and owners the same affordable benefits, determining the owners on formal grounds will just highlight the differences imbedded within the informality.

The legalisation of land tenure in urban areas is not only a trend in Turkey. Bromley (2009) argues that legalisation of tenure through the registration of land and the delivery of titles is but the latest in a long history of optimistic policy prescriptions imposed on developing countries. Anaya Roy (2005) observes that the theories of how cities function remain rooted in the developed world and planning practices are constantly borrowed and replicated across borders. In the case of Istanbul, the current planning practices have acquired a modern agenda towards land use regulation. Facing severe pressure on land and environment it seems natural to try to address these complex challenges in a structured way. The layering of multiple institutions, both formal structures of governance and informal practices, gives room for possible informal strategies by those better positioned. This access to politics, as highlighted by the UN-Habitat (2007) in the introduction, can thus go different ways over times to both benefitting and excluding those engaged in informal tenure arrangements – in Ayazma, the most disadvantaged.

Libby Porter (2011) stresses that legalisation asserts a changing mode of governance, an action oriented around control and power. She argues that the legalisation of urban informality is an attempt to *“improve the humanitarian conditions of people living and working in informal conditions”*, but it is also about restructuring property relations for accumulation and control through state regulation and planning. She stresses that such policy intents are clearly progressive, yet are cast in a dichotomy that makes legalisation the only promising option while ignoring fundamental structures of power (Porter 2011). With a view on Turkey, the inherent dead capital is now being mobilised with the implementation of urban transformation projects by TOKI. Those who stand to gain are however not necessarily the ones who lives in these areas. Therefore this thesis stresses the importance of a rights based approach that takes it point of departure in the actual *usage* of the plot rather than the right to profit.

## Chapter 7: Conclusion

Instead of being separate structures, of legal and illegal, their interaction constitutes this dynamic relationship that is shaped and reshaped over time. The organisation of tenure within the informal settlements, as a consequence of its illegality, moved from a strategy of non-compliance in the 1950s and 1960s towards a strategy of convergence after the enactment of the *gecekondu* law in 1966. These amnesty laws can be seen as a positive discrimination towards squatters by undermining the formal institution of private property. The amnesties granted constitute an ambiguous signal from the central government that squatting was considered a legitimate means of tenure, suggesting a gradual legalization effort of informal and illegal settlements.

Informal settlements can clearly be seen as heterogeneous communities that have changed over time. Three periods can roughly be identified, having each their individual logic of institutional (re)structuring and change. The first period from 1950 to 1980 is here viewed as highly beneficial towards the squatters. The first migrants arriving and constructing the initial informal settlements managed over time to acquire formal recognition, and even legal titles of tenure and property rights. The dual structure of customary tenure and that of private property in the beginning of the urbanisation period in the 1950s, constitutes the basis for the institutionalisation of informality into the local municipalities. The initial policy asserted the demolition of squatters, but in the light of the overall structural re-orientation of the agrarian economy gave the central government a lack of incentive to enforce the formal institution of property. The community and their ability to engage in populist practices with state officials secured their tenure status and becoming *de facto* legal. This legitimacy developed a more permanent character over time as the formal and informal institutions converged. The grey zone within the legal framework for service provisions and the mixed signals send from the central government towards their illegal status by giving amnesties is a clear sign of the institutionalisation of informality within public structures and practices.

The convergence towards legal requirements takes different forms and develops over time a characteristic that makes it almost indistinguishable from formal housing. In other words, the informal settlements are capable of transforming themselves over time and show greater conformity with official conditions as a way to create a perceived security of tenure. It constitutes the positive cycle of development that this strategic convergence leads to. The institutional legalisation of tenure in the case

of this first period was fairly straight forward, with both residents and governments engaging in a populist relationship.

Extra-legal but contractual arrangements are some of the characteristics of the second period, from around the 1980s to the rise of TOKI in the early 2004. In this second period the structure of tenure became increasingly complex, with more immigrants moving into the settlements, shift in government policy, and increasingly blurred forms of tenure and property rights. Former residents, having capitalized on the amnesties, and in fact with formal entitlements increasingly turned their new property and tenure rights into a market, subletting and subdividing their lots to newcomers without formal secure tenure or ownership. These contracts existed in a grey zone however, since they were extra-legal with regard to constitutional law. As such, they functioned as binding contracts between related parties, but with a, at best, shaky legality in the formal institutions outside the settlements. Nevertheless, rent-seeking and interests of actors representing formal institutions (i.e. the discussed electorate function of residents) accepted them as quasi-legal, leading to an accommodation of informal institutions under the general institutional framework of municipal and national governments. The residents living under, strictly speaking, informally secured and juridical non-binding tenure, nevertheless enjoyed relative stability and security of tenure, since involved parties accepted the validity of informal arrangements in the settlements. Representatives of the formal institutions equally enjoyed benefits, since they see investment opportunities and electorate functions in the settlements. This situation of at times convergent interests of bureaucrats and informal residents, has led to accommodation and even convergence of formal and informal institutions, again resulting in a slow formalization process, alas without complete legalization.

The institutional convergence of illegal and legal, informal and formal patterns of tenure rights and titles, has been a main feature of the Turkish policy approach towards informal settlements. The accommodation and gradual institutional change, understood as the legalization and formalization process of tenure rights and legal statuses, have been facilitated by populist politics, granting of amnesties, and the forces of interests of both political, economic, and social actors and interests (such as mayors relying on squatters as electorate). The accommodation of informal and extra-legal tenure within the formal institutional structure, leads to institutional layering that provides actors with space for pushing strategic agendas, both top-down and bottom up. Even though politics and economy have seen radical shifts during the period of time outlined in this thesis, the institutional layering - accommodation of informality within the formal institutional structure - have led to a fairly stable and predictable environment for squatters. With a view on Istanbul this informal but stable environment is under redevelopment and shows the inherent inequalities embedded in the grey zone of tenure arrangements. When adapting a policy of legalisation towards 'solving' the housing problems of the

developing world, degrees of informality have to be addressed on use right rather than profit rights. This thesis therefore concludes that legalisation of informal settlements should be addressed with caution.

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