

An Assessment about Land Consolidation in Turkey

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Key words: Land consolidation, Land consolidation law, Land Protection, Land Use

SUMMARY

In Turkey, addition to land consolidation studies about land property change, land and agricultural reform, land consolidation, village settlement area, forest cadastre and pasture studies are done. Nowadays, similar studies are being done by the law of land and agricultural reform, land consolidation, selling of treasury land, consolidation of village settlement areas, pasture applications, land protection and land use.

In Turkey, land consolidation studies have been done by different legislations and institutes since 1973. And this revives application problems. In this study, Turkey's rural area consolidation application problems will be approached and solution offers about rural development will be represented.

Türkiye’de Arazi Düzenlemesi Üzerine Bir Değerlendirme

Anahtar kelimeler: Arazi düzenlemesi, Arazi Düzenlemesi mevzuatı, Arazi koruma, Arazi kullanımı

ÖZET

Türkiye’de arazi mülkiyetinin değişimine yönelik arazi düzenlemesi çalışmalarının yanında, toprak ve tarım reformu, arazi toplulaştırma, köy yerleşim alanı, orman kadastrosu ve mera çalışmaları yapılmıştır. Günümüzde buna benzer çalışmalar; toprak ve tarım reformu, arazi toplulaştırması, hazine arazilerinin satışı, köy yerleşim alanı düzenlemesi, mera uygulamaları ve toprak koruma ve arazi kullanımı kanunu adı altında yapılmaktadır.

Türkiye’de 1973 yılından beri Arazi düzenleme çalışmaları farklı mevzuat ve kurumlar tarafından yapılmaktadır. Bu da beraberinde uygulama problemlerini gündeme getirmektedir. Bu çalışmada, Türkiye’deki kırsal arazi düzenlemeleri uygulama problemleri ele alınacak ve kırsal gelişim kapsamında çözüm önerileri getirilecektir.

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1. INTRODUCTION

In 2010, while 25% of Turkey population live in rural and 75% in urban area, it is planned to be as 20% rural and 80% urban area in 2025 and, 10% to 90% in 2050 (DPT -state planning organisation- 2006 and Turker 2010). And realization of these estimations will be possible by the development of industry. This “ rural/urban, agriculture/industry ” population rate change; cause deformations in agricultural structure, emerging of social and economical problems in rural and urban which are sourced by and from properties. In order to increase life standards of population in the countryside, it is necessary to make up a shortage about deficiencies in rural structure and imbalances in land ownerships. Solution of these problems will bring land consolidation studies into light.

For the present, rural and urban population imbalance is not matter of discuss in European countries, and; In the European countries rural population is tried to be kept at 5%.Because if this rate drops below 5%, food production is worried to be be imperiled (Magel 2005).

The first land consolidation in 1961 was held in Karkin village in Konya Province, and in 1964 began jointly with the State Planning Office and FAO in the Antalya Region (Antalya, Burdur and Isparta Provinces). These studies, from the beginning till today, have been done by; Mulga TOPRAKSU and general directorate for rural services (In 13.01.2005, the law about revoking of general directorate for rural services and making changes on some laws is accepted), general directorate of agricultural reform (TRGM) and special provincial directorate of administration. Until 2010, land consolidation of arround 1 million hectares area, and it is being planned to finish land consolidation of 2 million hectares areas.

In Turkey, agricultural lands are in a position of partial, spoilt shaped, not connected to road network, hampering watering and drainage system application. Although efforts for watering, fertilizing, agricultural mechanisation, use of good quality seeds and agricultural struggle provide somewhat increase in efficiency, it can not be said that plantal and animal production as unit has come to a sufficient level.

As the parcels are dispersed and small, necessity of more machine and human prevents mass agriculture. In other words, as production per unit decreases, cost increases. Also, as there is some difficulties in watering applications, it causes increase in watering network costs, and despite high investment cost, low irrigation efficiency and low watering rate. (Yağanoğlu and others 2000, Cay 2001). In the Europe Union the average farm size is 16 hectares compared with 6 hectares in Turkey; the average number of parcels per farm is six (average size of one hectare).

Land consolidation is defined as “the rearrangement of the countryside in line with the

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requirements of the developing farming technology and of the individuals in order to take every necessary decision to make the farms more prolific". Land consolidation is generally considered as the consolidation and redistribution of fragmented farming grounds according to modern business administration principles. However, land consolidations have been largely connected with social and economic reforms in practise.

Land consolidation is essential for ensuring the economic viability of rural areas, facilitating environmental management, or rationalising urban growth (Sonnenberg, 1996; Van den Brink, 1999; Van Lier, 2000; Crecente et al., 2002).

The objectives of land consolidation vary in different countries, as the development of the procedure has been effected by the historical trends, culture, traditions and legislation in each country. The objectives of land consolidation can, however, be operationally grouped into objectives concerning agriculture and forestry, the development of other industries, the housing and living environment, and other land use needs. Regarding the goal setters the objectives of land consolidation can be considered from the viewpoint of the landowners, other interested parties (tenants, easement holders, encumbrancers, etc.), society and other interest groups (village residents, nature and environmental protection organisations, contractors, etc) (Vitikainen, 2004).

Land consolidation is an important measure to achieve dynamic balance of arable land and ensure the security of food supply. And to achieve the sustainable use of land resource, we must improve the ecology construction in land consolidation projects. Only under this prerequisite can land consolidation achieve the coordination and unity of society, economy and ecology. Furthermore, carrying out ecological compensation practices will encourage eveloping ecological land consolidation and internalizing the negative effects on the environment (Zhong xue-bin et al., 2006).

In all countries, land consolidation is applied to improve the rural areas. Because rural areas comprise substantial parts of the regions and are subject to a range of pressures including water shortage, land degradation, failing commodity prices and depopulation. Land consolidation means to unite and reregister the lands, which were divided because of heritage, sales or irrigation canals .

In Turkey, beside land ownership change studies, land and agriculture reform, land consolidation, village settlement area, forest cadastre and pasture studies have been done. Recently, similar studies are done under the name of; land and agriculture reform, land consolidation, selling of treasury land, consolidation of village settlement area, pasture applications and land protection and land use law.

In this study, Turkey's rural area consolidation application problems will be approached and solution offers about rural development will be represented.

2. JURIDICAL REGULATIONS ABOUT PROPERTIES WITHIN THE SCOPE OF LAND CONSOLIDATION IN TURKEY

In Turkey, about properties within the scope of land consolidation; land and agriculture reform, land consolidation, rural area consolidation, selling of treasury land, village settlement area, pasture and land protection and land use law applications are being done.

2.1. Land and Agriculture Reform Applications

Below laws about land and agriculture reform are constituted since the beginning of Turkish Republic (1923) ;

- In the 25.a statement of 1926 dated budget law; “giving 200 decare to needy families from treasury land on condition that worth will be paid in ten years” is envisaged.
- It is envisaged to give land from treasury land to needy farmers in East Anatolia by 2.6.1929 dated and 1505 numbered law.
- 16.4.1934 dated and 2510 numbered settlement law.
- 11.6.1945 dated and 4753 numbered provision of land law for farmers.
- 26.07.1972 dated and 1617 numbered Land and Agriculture Reform Precautions Law,
- 17.07.1973 dated 1757 numbered Land and Agriculture Reform Law,
- 22.11.1984 dated and 3083 numbered Agriculture Reform Law about land consolidations in irrigation areas,
- 13.02.2001 dated and 4626 numbered Law about changings in agriculture reform law about land consolidations in irrigation areas,
- 23.02.2011 dated and 6171 numbered Law about changings in agriculture reform law about land consolidations in irrigation areas,

Most important studies which are done within the scope of land and agriculture reform up to today are; 4753 numbered provision of land for farmers law (defunct), 1757 numbered Land and Agriculture Reform Law (defunct) and 3083 numbered Agriculture Reform Law studies about land consolidation in irrigation areas.

2.1.1. 4753 Numbered provision of land for farmers law

The law taken in effect in 1945 have changed a lot until it comes to inuring position and as a result it targeted to distribute state lands and opening natural areas for agriculture instead of an equalitarian land possession and use.

Provision of land for farmers law is standed between 1945-73 for 28 years lasting period of time. Within the application period, 2,2 million hectar land is distributed to 446 825 family in 8116 villages. Also, by the 4753 numbered law, 3,4 million hectares state property meadow and pasture is assigned and represented for common use of farmers (Anonymous,1995).

2.1.2 1757 numbered Land and Agriculture Reform Law

The law which is constituted in 1973 aimed to realization of three basic aims:

1. Economical Aim: Increasing agricultural production by providing efficient management of land in a constant way, providing assessment of increasing production and pave the way for development of industry which is essential for developing.
2. Social Aim: Removing imbalances in distribution of land and income in countryside, generate employment opportunity and providing property security.
3. Political Aim: Creating freely use of rights for the workers which are provided by constitutional law.

Şanlıurfa city is declared as widely plot application area of 1757 numbered law and cadastre studies of the whole city is completed in a short time to be able to start application. (Bıyık 1991). Law is applied between 1973-1978 years and revoked by constitutional court in 1978.

2.2. Land Consolidation

In Turkey, 14.000.000 hectares area are proper for consolidation.8.500,000 hectares of these areas are irrigable. There are still 5.000 000 irrigable areas. In Turkey 1.000 000 ha areas are consolidated. 13.,000 000 ha areas are still waiting for consolidation. (Anonymous 2010, Turker 2010). Land consolidations in Turkey are being done regarding legal basis which are summarised below. These are ;

2.2.1. Applications which are done according to the 3083 numbered “Agriculture Reform Law about Land Consolidation in Irrigation Areas”

1984 dated and 3083 numbered Agriculture Reform Law about Land Consolidation in Irrigation Areas, also includes land reform stylistically. This law also predicts, determined land norm (land amount which can make a living for a farmer family) for the publicising of big land owners’ lands and provision of lands for farmers who do not have land.

By this aim; if they exceed predetermined distribution norm for the area, they are agricultural construction and facilities together with part which exceed tenfold except for real estates, vineyards and orchards and woodland and sample plants which are the subject of socialization. (3083/item:5). In the law text, basic principles of land reform are arranged according to general specifications, details take place in application regulations which take place afterwards.

In the precautions about agriculture reform which are estimated in law, consolidations for

agriculture structure are understood beside land reform. Increasing fertility in agriculture, distribution of state property land to the farmers who do not have sufficient or any land, consolidation of agriculture land use out of purpose, assessment of agricultural lands which are not distributed, consolidation of properties' possession, disposal and settlements in necessary places by national security reasons constitute the aim of law. Also, the rules for the extensity of land which will be distributed and socialised from private property and chosen of the farmers who will use it are arranged in the law. Three main specifications arise when the law is investigated. These specifications can be collected under land reform, land consolidation and protection of agriculture land titles.

6th item of 3083 numbered law determines the consolidation basics. In order to perform the aims indicated in this law, land consolidation can be done in application areas with or without permission of property owners by related institution. By giving precedence to volunteers, supporter precautions for land consolidation can be taken by related institute such as land development and easier access for credit uses (Additional subclause:23.02.2001-4626 S.K./1 md) Up to 10% share cost is taken from the land which is belong to real person or socialization or private and juridical corporate entity for common use points such as road, channel regarding the specification of project. In the roads which are closed for consolidation, redundants of the roads are used for the same purpose. Nothing is paid for sharing cost. But the cut land which is out of sharing, is compensated by equivalent treasury land if available. If not socialization is done for seperated land.

At the end of consolidation, agriculture lands which are distributed are recorded to registry in the name of owners, left areas are recorded to registry by request of applying establishment in the name of treasury. The land which is registered in the name of property owners, can not be shared or subdivided by permission or by the decision of the referee to smaller parts than the allowed distribution norm for the determined area. This matter is annotated to land registry. Grading of the land according to consolidation basis and procedures are indicated in regulations. And it is given in the forth section of the law's regulation under the name of consolidation and land change.

3083 numbered law aims to remove splitting by determining minimum size of an enterprise for the land amount which will be distributed. Preventing splitting is of great importance for protecting in agricultural substructure healings. But when agricultural structure of the area is considered, it is obvious that law rules will not be enough and physical splitting will keep on. 3083 numbered law is accepted both optional and obligatory. In the law, volunteered consolidation land expanding and related credit opportunities are of privileged importance. But in the application regulation of 3083 numbered law, volunteered technique has a priority in the application. Obligatory consolidation is allowed to be applied in situations that necessary approval for voluntary consolidation can not be provided. In this rule it is understood that regulation employs obligatory technique primarily. Consolidation projects must be finished within 5 years according to limitations of the rights of property owners according to rules of the law. This time is extended to 10 years by 4626 numbered law. The necessity for this regulation can be connected to unaccomplishing of the projects within this term (Gün2011). Application regulation of 3083 numbered law also includes some rules which are related with land consolidation. Land Consolidation of village settlements and

determination of their development areas have a close relationship with a comprehensive land consolidation. Adoption of this matter legally, can be thought as a development for land consolidation. According to 2001 datas, settlement plannings are done in 744 villages and 1904 hamlets in Şanlıurfa city (Gün2011).

New regulations are done in 3083 numbered Protection of Agricultural Land law. Studies about it can be explained as below;

In the 19th statement of 3083 numbered law it is envisaged that agricultural lands can not be used by any other purposes but agriculture. According to application regulations if necessary to be used by national defence necessities these lands, agricultural lands and industrial lands, airports, dams and puddles, power plants, touristic places, sport areas, mine, rock, sand, brick mines and similar investments can be used for purposes by the permission of General Management. Agriculture Reform Law Application Regulation about Land Consolidation on irrigation areas is changed by 1985-85/9588 dated and numbered regulation. There is limitations in 65th statement of the changed regulation for preventing out of use of agriculture lands.

“Statement 65- In application areas, agricultural area which is out of construction plan and neighbouring areas and left to the property owner according to regulation, distributed or left to command of General Management can not be used for any other purpose but agriculture. But ; these lands; agricultural enterprise or processing of agricultural products and related constructions and facilities and industrial zones, airports, dams and puddles, petrol stations or recreations, energy, transportation, communication investments, neighbouring areas and construction plan requests or etc. can be used for purposes for national defence necessities by the permission of General Management. Case of emergency is determined by an established commission.”

Another rule is that agriculture lands can be left to decision of treasury for their use of purposes. Actually these explanations are not for protecting agriculture lands but for determining the conditions of agricultural lands uses for purposes according to the main aim of 3083 numbered law’s basic principle for protecting agriculture lands.

Planning studies for use of agricultural lands are finished by directorate-general agriculture in Şanlıurfa city in 2.901.560 da areas and 180.811 da areas are allowed to be used for purposes. (Gün, 2011).

2.2.2. 5403/5578 Numbered Land Protection and Land Use Law

In Turkey, legal regulations about land protection has only been statetements and regulations and rules until 2005. In 2005 for the first time “Land Protection and Land Use Law” 5403 numbered law is regulated.

The aim of this law is; saving land by preventing its losing its specifications by natural or artificial ways, developing of it and determining planned land use basics in a proper way to sustainable developing principle.

Law, generally includes use of land property right, determining soil and land existence, classification of agricultural areas and determining land parcel sizes, protection of lands and land use, use of agriculture lands for purposes, land consolidation and distribution matters.

Law is mostly criticized about the matter of determination of parcel sizes, and while minimum separable parcel size on the agricultural lands is 5000 m² by Registry Law, by the law of Land Protection and Land Use Law, “smallest area that agricultural actions can be applied economically and agricultural area parcel size which should not be decreased more, social, economical, ecological and technical specifications of the regions and areas are considered and determined by ministry. Except for necessity areas for public investments, agricultural areas can not be divided into smaller parts than enough big agricultural land parcels which are determined previously. Parcelling can not be done in heritage areas if enough big parcels can not be created. Common use, renting or selling is applied. It is indicated that it can not be less than land norm value. As the land norm will have differences regarding the regions, smallest separable area has been a matter of argue for public and repudiated values by public; is accepted as 2hectars in certain agriculture lands and specific crop areas, 0,5 hectar in planted agriculture lands, 0,3 hectar in greenhouse cultivation lands and at least 2 hectars in marginal agriculture lands. (By the 5578 numbered Land Protection and Land Use Additional Law) ; “Statement 2 of Land Protection and Land Use Law’s 8. statement” is changed as below;

Statement 8. Agricultural Lands; are classified as certain agriculture lands, specific crop land and marginal agriculture lands,planted agriculture lands according to their natural specifications and importance in country agriculture. Ministry can also make different classifications about protection, developing and use of agriculture lands.

Parcel size of agriculture land, in which agricultural activities can be done and should not be decreased more, is determined by Ministry by considering agricultural parcel size, area and regions’ social, economical, ecological and technical specifications. Agricultural lands which reach determined smallness can not be seperated in respect to inheritance law and gains object qualification. This specification of agricultural land is annotated to registry.

Determined parcel size can not be smaller than 2 hectares in certain agriculture lands and particular crop areas, 0,5 hectar in planted agriculture lands, 0,3 hectar in greenhouse cultivation lands and less than 2 hectares in marginal agriculture lands. Agriculture lands can not be seperated more than these sizes or seperated smaller parcels. But in areas that tea, nut, olive cultivation is done which require special climate and soil and greenhouse areas, if it is necessary to seperate the land smaller parts regarding the necessity of region, smaller parcels can be created by approve of Ministry.

By approve of Ministry, except for the places which are needed for public investments, determined parcel sizes can not be separated to smaller parts. If infrangible size agriculture lands are matter of heritage and what so ever if there is properties on them, these lands can not be parcelled, *their parts can not be sold, passed or hypothecated to third party people.* 4721 numbered rule of the Turkish Civil Code about allocation is applied by analogy for these lands.

Another important statement of Land Protection Law is land consolidation and distribution basis which are taken into action by 17th statement.

As Land Protection and Land Use Law is not understood by public and in application, it is tried to be explained by 2007/5 numbered circular.

Circular about Land Protection and Land Use Law (No:2007/5):

There is a protocol is regulated about making change in 5578 numbered Land Protection and Land Use Law which is between the ministry of agriculture and rural affairs agricultural producing and developing general management. Protocol,"as already known has rearranged certain agriculture lands which should not be divided into smaller parts, 2 hectares for marginal agriculture lands and specific agriculture lands, 0,5 hectare in planted agriculture lands and 0,3 hectare in greenhouse cultivation areas" in the 09.02.2007 dated and 26429 numbered Turkish Republic published in official journal as 5578 numbered Law about the change in Land Protection and Land Use Law". In the last line of law's 8th statement, "if infrangible size agriculture lands are matter of heritage and what so ever if there is properties on them, these lands can not be parcelled, their parts can not be sold, passed or hypothecated to third party people." Statement take place. For this reason;

- a) Below stated agriculture land in infrangible lands are prohibited to be sold to third party people, but there is not an inconvenience for passing or hypothecate of these lands to third party people. But while parcelling there can not be smaller parcels within infrangible agriculture lands.
- b) Agriculture lands which are bigger than infrangible size, can be sold as divided into shares as long as being above stated sizes.
- c) In agriculture lands which are infrangible and reserve a property, third party sales, passing or hypothecate of all infrangible area along with properties can be done by attendance of all sharers.
- d) All kind of land use plans which are done within the existing regulations, application, construction plans and piecemeal plans and areas within these plans, are out of the law as they gain estate specification except for lands which keep agricultural land qualification.
- e) Unplanned, dense settlement areas which are impossible to be used for agriculture purposes are out of the scope of this law.
- f) In registry studies; as the registry is intended to elutriation, in parcelling businesses, 5403 numbered Law's "enforcement date of 5578 numbered law's will be considered."

2.3. Selling of Treasury Lands

In 16/2/1995, 4070 numbered Law about the Selling of Treasury Property Lands has been

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taken effect. The purpose of this law is determining the basis of selling of these lands. Treasury property lands can be sold by cash payment, instalment or by tender. Because of soilless or insufficient soil, tenants who hire this areas, if they wish, direct selling will be possible over determined value before the date of 31.12.1993. In treasury property agriculture lands, ration can be directly sold if the area is not more than 40 decare in ripe lands and 100 decare in arid lands. People, who use treasury lands for agricultural purposes before 31.12.1993 date for ten years, can be directly sold these treasury land to themselves, partners and young children, as not more than 40 decare in ripe lands and 100 decare in arid lands.

Primary Buying Right of Agriculture Land Users.

Statement 8- gives the right for primary buying for who are agriculture land users or their inheritors do not use directly buying right before the date of 31.12.1993 for the lands which are previously belong to treasury.

- a) if they are determined by treasury that they are still using properties virtually,
- b) not having themselves',partners' and young childrens's, as not more than 40 decare in ripe lands and 100 decare in terra firmas,

In these conditions they have primary buying rights for released properties according to 2th statement of this law.

Parcel Processes:

Statement 12. Parcelling processes are done according to the maps which are proper to Registry Related Map and Plans Regulation.

In parcelling which are done according to this law, 3194 numbered Construction Law and Application Regulations sentences are not applied.

2.4. Village Settlement Area Applications According to 3367 Numbered Law

By adding 7 statements to 18.03.1924 dated and 442 numbered village law, in 20.05.1987 dated and 3367 numbered "Village Settlement Area Law" and 20.08.1987 dated (R.G.19550) "Village Settlement Area Regulation" is taken effect.

Village Headman, can request village settlement plan from administrative chief after receiving positive response from village council. Village settlement plan includes village settlement and developing area (Additional Statement 9).

If Headman's request is accepted by governorship, Village Settlement Area Determination Council is sent for the making of village settlement area plan. Village Settlement Area Determination Council consists of one parochial representative of finance office and custom, ministry of public works, ministry of agriculture, forest and rural areas and general directorate of land registry and cadastre by the management of deputy governor. If necessary other experts join to this group. Council, arranges village settlement plan by considering existing

and developing situation of the village. On this plan, ministry of agriculture, forest and rural areas make to take action to people who determines the position of parcels by not relating to basis of regulations of Construction Law's related basis (Additional Statement 10).

The places which are left for housing zone and general necessities of the village in village settlement plan, pastures, summer pastures, cruising areas, harvest and fair areas which are under the rules and decision of state and real estates which are treasury property but are not left for the service of public, lose their specifications automatically by the approval of the settlement plan and recorded to registry on behalf of legal entity by the request of governorship (Additional Statement 12).

Parcels which are recorded in registry on behalf of legal entity and at most 2000 m² can be sold to needers by the decision of village council in a current value. Sale cost is collected in 5 years at most or 5 equal instalment, and invested to village account for being used in construction businesses of the village. Buildings must be constructed on sold parcels by village council in 5 years. Right owners can not pass or assign these places to third party people for 10 years.

In 3 July 2003 date, 442 numbered Village Law's 87th statement is repealed and law change is accepted which enables selling of the areas within village borders to foreigners.

Real estate possession of foreigners within village was prohibited by 87th statement of 442 numbered Village Law. Repealing of concerned statement gives foreigners to have having land possession in anywhere they wish in any amount. In 27.05.2004, Law about making changes in some laws is accepted by 5178 numbered Pasture Law. In 5178 numbered Law's 5th statement temporarily added statement to Pasture Law; "Places which are out of pastures and used as settlement areas which are also technically impossible for pastoral use are changed their appropriation purposes and registered to treasury. By this consolidation which is some kind of remission of construction, illegal construction pastoral areas', appropriation purposes changed and they are not called as pastoral area anymore and take place in construction plan. Also by the change in the law, some mine activities such as sand and loam will be able to be done. Mentioned law is supposed to decrease pastoral areas and parceling changes has been increased by 4342 numbered law.

According to 3.7.2008 dated and 5782 numbered Law about Changes in Registry Law, land selling to foreigners is going on.

2.5 Pastoral Applications

Until 4342 numbered pastoral law for determination and border limiting and use of pastoral areas, there had been a lot of laws took place. But, as it is not clear what to be done if there is any problem on some points about these laws, laws which had taken effect since Tanzimat Reform Era has been out of countenance of our pastoral existence and it is destroyed. Pasture regulation could only be constituted by gathering 474, 2502, 885, 2510 numbered settlement laws, 1580 numbered Municipality law, 4753 numbered giving soil to farmers law, 3194 numbered settlement law, 2644 numbered registry law, 3402 numbered cadastre law, 766

numbered registry record law, 3202 numbered general directorate for rural services establishment law, 6831 numbered forest law and 45th statement of 1982 basic laws. By such a pasture regulation it has been impossible to make application even with concrete incidents both administratively and juridically.

As the law about summer pastures and winter pastures is not clear, caused its unconscious and uncontrolled use for long years, but by the taking effect of 4342 numbered pasture law

in 28 February 1998, first big step is taken. By this law;

- a) Pastoral, summer pasture, winter pasture and left places for municipalities which are used by same aim,
- b) State controlled places which are dealt to be used as pasture, summer pasture or winter pasture,
- c) Places which will be socialized for the use of pasture, summer pasture and winter pasture.
- d) It is aimed to develop cattle dealing on lands which are recorded as summer pastures and winter pastures in registry and still occupied.

In 26.03.2008, Law about change in Land Protecting and Land Use Law and Pasture Law. According to law, before 11.10.2004 date, lands which are used for purposes, can be used according to “desired purpose” if they do not ruin the “agricultural unity” (URL 1).

An important mission of going on studies is “studies for gaining pasture specification and losing of it”. Providing possession of pastures, also when those appetites who want to use this areas out of its purpose. In a lot of places, areas which have been preserved as pasture until recently, is cultivated and “so to say” used as farm since before and not pasture area. On the other hand, municipality neighbouring areas can be widened by adding pastures, for special reports it is claimed that those areas lost their qualifications as pasture areas and bureaucrats are inseminated and pressured. Permissions are trying to be get for private construction, industrial investments, touristic facilities, urban buildings to prove that pasture areas lost their specifications.

3. ASSESSMENT OF DEVELOPMENTS IN LAND CONSOLIDATION

In 1984 dated, 3083 numbered Agricultural Reform about Land Arrangement in Irrigation Areas, though attendance rate for common facilities is not clear, 10% limitation is executed by 4626 numbered additional law.

Studies for 4342 numbered law is concluded that Pasture Law, which has been discussed since long time, must be executed and 4342 numbered Pasture Law is accepted in 25.02.1998 by efforts of Ministry of Agriculture and Rural Affairs. Reforms of Pasture Law are as below;

- A fund will be created for recovery and development of the pastures.
- In pasture use, over-grazing of the animals will be prevented. In pastures, regular grazing will be applied and pastures will be sustainable. Those who do not obey these rules will levy a fine by law.
- In rural areas, social-economical development and connectedly there will be moderation in immigration from rural to urban areas and even returning back from urban to rural area will be provided.
- By law, meadow and similar areas are no longer abandoned and principles are taken into consideration for ownage of these areas by government, village and municipalities. And pasture spoiling, irresponsible acts are stopped clearly.
- It is foreseen that pasture and similar areas should be drawn in extents, determine limits, and needs determination of physical sizes.
- Law also described how to act in process of “situation assignation, physical area determination, protection, recovery-development and efficial use” and the ministry of agriculture and rural affairs has been institution which is officially in charge.

Ever since 2005 July that Land Protection and Land Use Law is taken effect, 507.000 hectar area is taken area for being used by non-agricultural purposes in five years. In last 10 years non-agricultural area has increased close to 1 million hectors. This area is equal to 5,6 % of 16 million cultivated area and 3,8 % of all cultivated areas. In Turkey it is observed that on one side agricultural production is increasing by “Good Agriculture Applications” but on the other side there is a decreasing on the protection of agricultural lands. (URL 2).

It is not clear how to determine the extent of the concept of “public weal” for use of agriculture areas in planned investments and facilities unless alternative areas are found.

Within the scope of land arrangement;

05.10.2004 dated 25604 numbered Agriculture Council Regulation in Official journal,

13.01.2005 dated and 5286 numbered Law about removing of general directorate for rural services and making changes in some laws

15.03.2007 dated 5603 numbered Law about Missions of Corporation for Supporting Agricultural and Rural Development.

04.05.2007 dated 5648 numbered Law about Missions of Corporation for Supporting Agricultural and Rural Development.

23.02.2011 dated and 6171 numbered law about making changes in the law of Agriculture Reform about Land Consolidation in Irrigation Areas.

are accepted and juridical regulations are studied for being taken into effect for the solution of problems.

Execution of land consolidation by different law and establishments, authorisation of different corporations by 5403 numbered Land Protection Law and 2009 dated ATT is an expected positive development. But it is negative from the point of application that there is still 2 leading main laws about land consolidation. Which means that, land consolidation is applied in different ways by 5403 numbered land protection and land use law and 3083 numbered law which is about changes in agricultural land reform law on irrigation areas.

20 decare parcelling condition which is taken into effect by 5403 numbered law, is evolved by changes in 3083 numbered law and 6171 numbered law which is “law about changes in agricultural land reform law on the irrigation areas that can not be splitted into smaller parts by or without permission and can not be subject to parcelling. Such matters are directed by registry ministry.”

In Turkey there is still 5000 m² area which are in evacuation condition and 20000 m² areas which are also in evacuation condition by 6171 numbered law, and this constitutes a big problem when we consider that this area is approximately 50000 m² in wetlands and 150000 m² in dryland.

At the same time, it will cause widening physical division in registry records and will cause map engineers’ losing their job who work in private sector. So, in important projects we will always face the problem of update of “land registry and cadastre”.

Although parcelling condition, which is taken effect in recent, has targeted to decrease land loses within conflict of small enterprises, it will be never possible to be used in Turkey’s agricultural structure and heritage law. So notary sales which comes all along will go on. Land conflicts for physical use will increase, social peace will be spoiled in rural areas. At the same time, there will be a direct interference to the property right which is under the secure of basic law.

TKGM tries to overcome limitation about property by regulations. By 2007/5 numbered regulation of TKGM, “selling, passing and hypothecate of infrangible agricultural lands to third parties are being prohibited, but bigger areas than infrangible agricultural lands can be sold, passed or hypothecated.” Creation of a solution is tried.

First line of 5th statement of 3083 numbered law, 1st statement of 6171 numbered law “by the part which is over ten times, can be publicised along with agricultural construction and facilities”. By this means in publicising, lands which are watered by state is considered as irrigated areas.” Changed in this way and open a path for publicising of agricultural building and facilities.

As rural and social life in Turkey can not response to benefits of rural area people materially and spiritually, there is a wide existence of illegal use of real estates in a lot of places despite cadastre (Ülger, 2005).

Since the establishment of general directorate of land registry and cadastre, as a result of performed registry and cadastre studies, different scale, sensitivity, base and linear in systems different maps are produced. But as a result of Registry and Cadastre services, changing processes, (parcelling, land amalgamation, leaving for road, application, type change, construction applications, publicising, consolidation, etc.) which are wanted to be done by cadastral units are insufficient because of technical reasons and because of their supporter documents that are clear, can not be done in a healthy way and cause economical losses. Also, as these maps lose their currency and not reflecting the area because of different reasons, and a result of this increasing complaints and keeping courts busy for years for solving the problems. These insufficiencies create an obstacle for the conducting of investment, engineering services and projects. And solution of this problem is possible by the fastest means of land consolidation studies.

Value assessment of rural area in land consolidation studies are done by levelling basis. And its basis are done by 3083 numbered law and Land Consolidation Charter. On the other hand assessment of real estates in rural areas is determined by interest rate. This rate is gathered by dividing annual income to value of land. Value of real estate in rural area can not be calculated directly by existing calculation techniques. Because agricultural incomes in Turkey mostly show differences according to state support. As agriculture is not supported enough, small and medium scaled enterprises mostly make loss. So, capitulation interest rate can not be calculated in here. (app. 50 decare land owners are middle scaled enterprises, and less than 50 decare land owners are called as small scaled enterprises.). When we consider that approximate enterprise size is 60 decare in Turkey it can be understood how big this problem is.

As there is not land use plans in Turkey, agriculture, pasture and forest areas are used out of their purposes. This situation puts food security in danger for future.

4. CONCLUSION AND SUGGESTIONS

The point we reach today shows that all consolidation studies about pasture and agriculture are some kind of compulse for immigration for rural population, and causing loss of agricultural production and decreasing agricultural development.

It is necessary to increase the support to double for farmers who have 60 decare and smaller lands. When we consider the rate of unemployment in Turkey, it is seen that supporting middle and small scaled enterprises is very important. Although it is thought that agricultural population should be below 10 % in developed countries, in developing countries such as Turkey (still developing because it has not completed its industry yet) it is seen that agriculture must be supported more on rural areas when we consider the unemployment rate. This situation causes increase growth in rural area population, and prevents decrease of the population at the same time. As a result of small scaled enterprises' being non agricultural, around 1 million unemployed people will be added to unemployed population of Turkey. When we consider that state should make 230,000 \$ investment for an unemployed, cost of 1 million unemployed people will be 230 billion \$. As it is not possible to compensate this cost

today, agricultural business of small scaled enterprises should be supported more. On the other hand, it is inevitable to revive consolidation studies in order to be able to provide general rural development, removing defects in agricultural structure and imbalances in and ownership.

It is thought that this responsibility can be managed by and established “Rural Development General Directory” in the best way.

Within this scope; Rural Development General Directory should be established and related by Agriculture Ministry and there should be directory units such as Land Reform, Agriculture Reform, Land Protection and Grading, Land Use, Village Settlement area consolidation and chief of socialization.

There should be a juridical unit for the consolidation of Rural Land Regulations withing one regulation. So, 3083 numbred “Reform Law about Land Consolidation on Irritation Areas” and 5403 numbered “Land protection and Land Use Law”, 4342 numbered “Pasture Law” 4070 numbered “Law about the selling of Treasury property areas” and 3367 numbered “Village Settlement Area Law” should be united and only one frame of “Rural Development Law” should be enacted.

REFERENCES

Anonymous (1995). General Directorate of Agricultural Reform End of Period Working Report.

Anonymous (2010). General Directorate of Agricultural Reform End of Period Working Report.

Cay T (2001). Land consolidation and law. Petek Ofset, Konya.

Crecente R., Alvarez C, Fra U (2002). Economic, Social and Environmental Impact of Land Consolidation in Galicia. Land Use Policy 19: 135–147.

Bıyık C (1991). A General Assessment about Land and Agriculture Applications in Turkey. Turkey,3th Map and Technical Council s.548-561 Ankara.

DPT (2006). Ninth Development Plan. Ankara.

Gun S (2011). Land Usage Policy and Planning Course Note. Ankara University Department Of Institute of Science Real Estate Development.

Magel H (2005). From Land Consolidation to Rural Development. Conference TMMOB. Ankara.

Sonnenberg J (1996). The European Dimensions and Land Management—Policy Issues (Land Readjustment and Land Consolidation as Tools For Development). Land Management in the Process of Transition. FIG Commission 7. Budapest.

Turker M (2010). Historical Development of Urbanisation and Effects of Agriculture Reform Applications on Urbanisation. Turkish World Architecture and Urban Planning Council. May 2010 Astana-Kazakhstan, 3:24-27.

URL 1 (2008). Agriculture Engineers Chamber. Contact Address: www.zmo.org.tr. Contact Date: 15.10.2008.

URL 2 (2011). Scaring Table in Agriculture http://www.habervaktim.com/haber/179443/tarimda_urkuten_tablo.html. Contact Date :07.04.2011.

Ulger E (2005). A study about Possession and Usage of Real Estate in Rural Areas. Land Consolidation Symposium.

Van den Brink A (1999). Sustainable development and land consolidation. In: Dixon-Gough, R.W. (Ed.), Land Reform and Sustainable Development. Ashgate. Aldershot, pp. 61–68.

Van Lier HN (2000). Land use planning and land consolidation in the future in Europe. Zeitschrift für Kulturtechnik und Landentwicklung 41 (3), 138–144.

Vitikainen A (2004). An Overview of Land Consolidation in Europe. Nordic Journal of Surveying and Real Estate Research. VOL 1:. p. 25-43. ISSN 1459-5877.

Yağanoğlu AV, Okuroğlu M, Hanay A (2000). Land Consolidation, Atatürk University Department Of Agriculture Faculty, Course Publication. No:159, Erzurum, 169s.

Xue-bin Z, Guang-Ming Y, Guo-Song H, Di L (2006). Carbon storage loss during land readjustment and optimization of ecological compensation. Chinese Journal of Ecology. 25(3):303-308.

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