

# THE TRANSFORMATIONS IN LAWS BETWEEN 2002-2012 AND THE 'LEGAL' FUTURE OF TURKISH CITIES

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## Abstract

**Keywords:** legislation, urbanization, urban planning, Turkish Cities

The laws that draw the frame of the urbanization and urban planning in Turkey has undergone a dramatic change in recent years. With housing and construction sector gaining ground in Turkish economy, the pressure over the legislation concerning urbanization and urban planning has been increased. The market demands more, so do the government. Within this context the legislation of urban planning and urbanization in general became more capital oriented and more centralized in political and administrative terms. Eventhough there is a tendency of decentralization originating from European Union Harmonization Process, decentralization remains superficial and most of the steps have been taken back with the recent changes in laws regarding planning authorities in central government and local governments.

These changes in laws will have varying impacts on cities and countryside, but the impact on the place and moment where those two, the city and the countryside, are juxtaposed, the impact is highly predictable: urban sprawl as a form of urban growth disorder (Yaşar, 2010). Within the framework of this paper, the legal background of contemporary urbanization in Turkey will be in focus. The laws and amendments to the laws made after 2002 up to now will be evaluated with reference to their observed and possible results in urban space, in Turkish cities.

The structure of the paper will be based on the laws; we will start with the study of the transformation taking place in the legal system after the elections held in 2002. Then, we will continue with observing the spatial results, the solidification of this legal framework. Last but not the least; by synthesizing all these analyses, we will discuss the issue in the theoretical level. In other words, we will start from the case, then attempt to build a stairway to the theory if possible.

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## 1. Introduction

*“Answered prayers cause more tears than those that remain unanswered”<sup>2</sup>*

*From “with the aim of housing production in accordance with development plans”  
to “with the aim of housing production”<sup>3</sup>*

We are in the course of wide and radical changes in legal framework. Every field is under a restructuration process; from health, education, public services in general to working conditions and rights, administration and distribution of authorities, and production of space. The elections done in 3<sup>rd</sup> of November in 2002 will probably be considered as a milestone in this process in near future when the results of those changes in society and in space are comprehensively grasped. Between 1991-1999 and up to 2002, Turkey was governed by eight different coalition governments or minority governments. This situation reduced the pace of possible changes and shifts, and decreased the decisiveness and power of the government in the restructuration process of legal framework. Especially after the coup d'état in 1980, the neo-liberalization process in Turkey is accelerated, but the legal changes to meet the needs of the neo-liberalization process has caught the needed pace with the single party government. In 2002, the leading party, Justice and Development Party (JDP) has been elected to take the control of the government, and majority of the Turkish Grand National Assembly has become members of JDP. In following elections the situation has not changed; A single-party government with a majority of chairs in the Assembly: strong and decisive. With this, the neo-liberalization process has been accelerated. As a matter of fact, amendments to the laws, as a way of changing how state and society behaves, has become the main agenda of assembly and government.

In recent years, urbanization and urban development have entered a new phase. Housing is highly commodified like it was never before; construction sector has become a core sector in urban economies. As a result, cities are widely suffering from the problem of urban growth disorder<sup>4</sup> showing symptoms of urban sprawl: excess production of developed urban land, dispersed peripheral settlements, fragmented cities, illegible macroform, consumed rural areas and housing problem. (Yaşar, 2010). To put bluntly, as we name it, urban growth disorder is one of the main problems that contemporary cities are suffering from. This disorder has some specific spatial features dominating the newly produced urban space. Nowadays the production of urban space is so mass in scale that this spatial feature dominates cities in general as well. One of the mainstream transformation taking place in the legal framework that is mentioned above is the restructuration of urbanization and urban

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2 Saint Teresa of Ávila, in Capote, Truman.(2008) Answered Prayers.

3 “In Law No. 4706; e) The phrase in the article 7/B “with the aim of housing production in accordance with development plans” is replaced with “with the aim of housing production”. Law No.5228 Bazı Kanunlarda ve 178 Sayılı Kanun Hükmünde Kararnamede Değişiklik Yapılması Hakkında Kanun (2004/07)

4 The concept, “urban growth disorder” is proposed by the author. (Yaşar, 2010).

development. The market pressure and government's perspective over urbanization is translated into the official language of government.

Within the framework of this paper, the legal background of contemporary urbanization in Turkey will be in focus. The laws and amendments to the laws made after 2002 up to now will be evaluated with reference to their observed and possible results in urban space, in Turkish cities. Ankara with her housing sector and periphery will be the reference of the observed results. The results are easily observable especially in the periphery of Ankara, where mass scale high-rise housing projects are taking place, high development rights are given (whether it be realized or not), and in where mass scale urban transformation projects are conducted (whether it be in the periphery or in the core) Streetless, centerless and endless, copy-paste housing areas in the middle of fields and in the middle of the city.

The legal framework of urbanization and planning is not a well-structured, legible one; with the transformation process mentioned above, it is becoming more and more chaotic. The transformation takes place in a fragmented way, bit by bit; therefore it is hard to decipher the direction that urbanization and planning heading to, and it is hard to understand situation comprehensively. In order to overcome this problem and make it more understandable, the laws and amendments to the laws, related with urban sprawl and housing will be classified with their emphases, and/or results. First of all, urbanization and urban development related laws are selected<sup>5</sup> and with a pre-reading the pattern of changes are noted. With reference to this pattern, a classification is produced. The laws can be distributed into three main classes which are: 1. restructuring the power and the authority; 2. restructuring the land market and land uses; and 3. restructuring the housing sector. These three, together provides the basis for urban development and urbanization. Some of the laws can be classified under more than one class due to their contents, yet most of them fall under one of these classes. A total of 17 laws, 2 draft laws<sup>6</sup> and 2 decree laws are selected and their related parts are classified and analyzed. Selections and classifications are made with reference to problem of urban sprawl and housing sector.<sup>7</sup>

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5 It is crucial to note that the selection of laws and decree laws is made with reference to the relevance to production of urban space and the power relations in producing urban space. As a highly relevant and special case; the laws related to regulating housing sector are also included.

6 One of the draft laws is accepted in 16<sup>th</sup> of May, while this article was on the eve of completion; so, the number of laws under inspection becomes 18 and draft laws are decreased to one.

7 For a more deep and general analysis on the legal background of urbanization in the case of Turkey, the work of Balaban (2008), which includes the legal background of urbanization with all its aspects classified and the transformation took place between 2002-2007, can be seen.

## 2. Laws and Production of Urban Space: The Change in the Legal Background of Urbanization and Housing Leading to Urban Growth Disorder between 2002 and 2012

In this part, the way that the urban space is produced will be traced back in the transformation of the laws after 2002. Neo-liberalization is an ongoing process dating back to 1970s, and in this continuum, the years 1980 (coup D'état) 2002 (JDP - single party government) are significant points, that deserve to be considered as a breakpoint. After the elections held in 2002, National Assembly, with a strong and synchronized voice, fastened the process of law making, and a significant amount of them are on the production of urban space. It is also important to note that 2001 was the year when a deep economic crisis took place in Turkey.<sup>8</sup> It is easy to read the impact of capitalist demands from the government, from the laws. However, this is not a one-sided and one-way process; in the case of Turkey, the impacts of state interventions are highly effective over the production of space in the capitalist form of cities (Balaban, 2008). In other words, laws, as the official and operative language of state, are also effective over the way of the production of urban space.

Before proceeding to the evaluation of selected laws, it is crucial to keep in mind that not the whole of laws but selected relevant parts will be highlighted and for the sake of being perceptible, simplification and summation will be used. It is the pattern that should be deciphered, as a matter of fact; we will highlight the relevant parts. This paper should not be seen as a structured picture of planning system and urbanization today but instead considered as a picture of the pattern of change in the legal framework of urbanization in the case of Turkey. In order to take this picture in high resolution, a significant sum of laws are analyzed, the number of laws can be increased via expanding the frame, but for operational purposes we will focus on the ones related with urbanization and housing production. The classification of related laws by years can be found below table.

Table 1. Selected and Classified Laws by Years<sup>9</sup>

year		2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	Draft
Laws and Production of Space; Urban Growth Disorder: Changes between 2002 and 2012			5104 5162 5216							Decree Laws 644, 648	Disaster L.	Disaster L.
	Restructuring power and authority				5481	5609	5793		5998			
			5104 5178 5216							Decree Laws 644, 648	6292 Disaster L.	-Disaster L. -Conservation of Nature and Biodiversity L.
	Restructuring land market and land use		5226	5403	5491	5578	5751		5998			
	Restructuring housing sector	4966	5273			5582					Disaster L.	Disaster L.

<sup>8</sup> According to Boratav (May 2010) in recent years, three similar crises are faced in Turkey in relation with global situation of economy and crises. These are 1994, 2001 and 2008-2009 crises. Moreover, the results of the global financial crisis of the year 2011, is not yet evaluated for the case of Turkey.

<sup>9</sup> The laws will be explained in the following parts.

A special note on the table 1 and general frame of the work is the acceptance of the Law on The Transformation of Areas under the Risk of Disaster. With this law, the production of urban space in existing urban areas and in urban periphery/rural areas surrounding cities has been restructured radically.

## **2.1 Restructuring the Power and the Authority: Distribution of authorities between central and local governments and participation of public**

The laws falling under this heading are analyzed in two dimensions implying two different sides of the tension. One is centralization-localization debate and the other one is enabling-disabling the participation. The balance between the local and the central bodies in production of urban space is not a clear and direct one. In other words with the changes in laws the authority is both centralized and localized at the same time. The second tension, the participation issue is clearer; most of the laws do not even mention it. With the law on the Transformation of Areas under the Risk of Disaster, the authority of central government has become indisputable and unquestionable. If a building is marked as under risk, demolition and transformation will take place within a short period of time without question and dispute. The participation to the decision making process is not in the agenda of the government and local governments previously, and the only way is to sue the decisions, plans etc. With the law it is now impossible to sue the decisions of demolition and transformation; in article 6, clause 9, it is clearly stated that *“Lawsuits and legal proceedings concerning the disputes related to the transfer transactions and the expropriation performed according to this article shall be executed and concluded only according to the value, and those related to the identification and the demolition works and processes shall be executed and concluded only according to the building and wreckage value.”* With this law, the production of urban space has totally lost its democratic state that never has been acquired actually, and become an act of a powerful central government with an indisputable authority.

In the year 2004, a significant amount of laws are accepted. With 5216 - The Metropolitan Municipality Law (July 2004), the rural areas surrounding the metropolitan cities has come under the rule of the metropolitan municipality. A circle is drawn, taking governor's office as the center with a changing radius based on the population of the metropolitan city.<sup>10</sup> To put bluntly, the rural areas under control of government's provincial organization; governorship, has become areas controlled by metropolitan municipalities. This can be seen as a step to localization yet participation of people (residents of urban and rural areas) is still lacking. Also Localization only takes place in metropolitan scale, not in lower scales.

Another significant law is 5162, the one On Changing The Mass Housing Law (May 2004) is the first step of the inevitable rise of Housing Development Administration

(TOKİ). With Article No.4 TOKİ is authorized with making and approval of the development plans in every scale, in urban transformation zones and in areas defined as mass housing development areas or areas owned by TOKİ. In addition to this, TOKİ is equipped with extended expropriation authorities. This law is on the centralization side, also participation is not even mentioned. The control of TOKİ over the production of housing and urban space converges to absolute, and this creates a tension between the authorities of metropolitan municipalities and TOKİ.

The last related law of 2004 is 5104 North Ankara Urban Transformation Law, a law specifically made for Ankara. With this law, the authority of metropolitan municipality of Ankara over the urban transformation project conducted in the north entrance of Ankara without any proposed mechanisms of participation of residents. The approving authority of the development plans produced is the Ministry of Public Works and Settlement<sup>11</sup>. In the year 2006 with the Law 5481, Metropolitan Municipality has become the approving authority.<sup>12</sup>

In 2007, with 5609 The Law on Making Amendments to The *Gecekondu* Law (March 2007), TOKİ is equipped with wide authorities once in the possession of Ministry of Public Works and Settlement.<sup>13</sup> The transformation of *gecekondu* areas has become an issue of TOKİ with this law and the clearance and replacement of *gecekondu* areas with mass housing projects is fastened with this law. The empowerment of TOKİ continued with the Law 5793 (July 2008). The authority of TOKİ is increased in *gecekondu* areas<sup>14</sup>, the areas under risk of disasters<sup>15</sup> and the public land subject to privatization<sup>16</sup>.

In 2010 the authorities of municipalities over the production of space is increased with the law 5998 The Law on Making Amendments to The Municipality Law (widely known as Article No.73). The key point of the law is the urban transformation issue. Municipalities (and metropolitan municipalities where existent) has become the main actor in the projects transforming *gecekondu* areas, the old city parts, areas that are under disaster risk, the improved lands or unimproved lands; for the purpose of housing production.<sup>17</sup> However, it will be superficial to consider these changes as a sign of localization. It is true that municipalities and metropolitan municipalities are authorized over the production of urban space, with a nearly absolute control; bodies of central government are authorized as well.

With the last chain, the decree laws number 644 and 648, the distribution of authority has become more stratified. In the year 2011, after the national elections, the ministries in the cabinet have been restructured. The Ministry of Public Works and

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11 Fused into Ministry of Environment and Urbanization in 2011.

12 April 2006. 5481, Article No.1

13 Article No.1

14 Article No.7

15 Article No.10

16 Article No.15

17 Article No.1

Settlement has become The Ministry of Environment and Urbanization and the authorities of the ministry, some of which were once passed to TOKİ, have given back to the ministry<sup>18</sup>. Moreover, the ministry is authorized with the control, acceptance and making of environmental plans and master plans (in accordance with environmental plans). The general decisions over the growth of the cities, over the housing sector, over the production of urban space in general, are now under the rule of the Ministry of Environment and Urbanization.<sup>19</sup> While this paper is in progress, the first draft law, Law on the Transformation of Areas under the Risk of Disaster, has passed<sup>20</sup>. With this law, urbanization, urban development and transformation will enter into a new stage. In 20 years 14 million flat will be evaluated, and if necessary demolished and rebuilt.<sup>21</sup> There is no control mechanism over the decision making process, not in national scale and not in local scale. The decisive authority is the cabinet and the decisions made are unquestionable.

Centralization of the authority of the production of space is the main result of the changes summarized above. However, significant sum of so called localization of authorities also has taken place, within this time period. It is a twin process, heading for both sides, however centralization dominates. But this does not imply that the localization and centralization processes are in conflict with each other. The metropolitan municipality, municipalities (where metropolitan municipalities are not existent), Housing and Development Administration and last but not the least The Ministry of Environment and Urbanization, these three bodies have powerful authorities over the production of urban space. The planning authorities given to metropolitan municipalities cannot be solely regarded as a step to localization and decentralization of power. This authority points out the direction of more urban development. Between central and local, there is a hidden and underlying consensus over the approach to the production of urban space in its widest sense. In addition to that, when the authorities of the local and central governments cross in production of urban space, or housing in specific; there is a consensus for more. In other words, there is no control over proposing more land development rights, housing areas or urban development in general. If the housing project proposed by TOKİ is conflicting with the master plan of the city, prepared by the municipality; this does not prevent TOKİ to produce housing in that specific area. Same goes for the Ministry of Environment and Urbanization, the transformation of existing urban areas and rural areas on the every part of the city will be considered on their own, isolated from the overall needs of the city. We are in the beginning of this new, highly powerful and widespread transformation era, and we cannot measure the impacts yet, but with the hint given by the changes of the legal framework after 2002

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18 Article No.2, Clause ğ.

19 Decree Law 644 Article No.7 Clause a. (July, 2011); Decree Law 648 Article No.1 Clauses ç, h and ı.

20 16<sup>th</sup> of May.

21 <http://www.hurriyet.com.tr/ekonomi/20585064.asp> 19 May 2012; Kentsel dönüşüm ofisleri kurulacak, konutlara sertifika, mülk sahibine kredi verilecek, Hürriyet. Accessed in 19 May 2012.

and the urban space produced with reference to it, we can assume that this period will be more central, and more powerful enabling fast operations.

## **2.2 Restructuring the Land Market and Land Uses: Commodification and recommodification of space**

The mechanisms controlling the outer limits of production of housing, developing lands and urbanization are under transformation as well; especially laws related with conservation are under reconstruction. In the year 2004, a significant amount of related laws are accepted. 5216 The Metropolitan Municipality Law (July 2004) is the most significant one. Within the circle defined in the previous part, metropolitan municipalities are authorized to produce plans of scale 1/25000 and 1/5000 in accordance with the Environmental Plan<sup>22</sup> (Ministry of Environment and Urbanization is authorized). Disaster issue is also mentioned in the law and metropolitan municipality is authorized to evacuate and demolish buildings under risk. Furthermore, with villages becoming neighborhoods, they have become possible further growth areas, as a part of urban areas. Even though those villages are not urbanized in its social, spatial and economic sense; they have become urbanized in administrative terms. They have become a significant part of urban land market and commodified in terms of urban land. Whether it be already developed or to be developed, these lands, that are on the outskirts of cities, are subject to land speculation. Agricultural production, in most cases is not enough to prevent land speculation and urban development. One of the most significant observance of the results of this law is the case of Ankara. In the year 2007, the Master Plan of Ankara has been accepted within the boundaries defined by the circle drawn by 5216 with reference to population. With the plan, the development plans proposed by district municipalities has become invalid, but in most of the part the previously given development rights are preserved. The population provisioned for the metropolitan area for the year 2023 is 7.5 million where the population for the year 2009 is 4 million. A population of 3.5 million has been turned into development rights on the rural periphery of the city.

Two other laws; 5226 The Law on the Amendment to the Cultural and Natural Heritage Protection Law and 5178 The Law on the Amendment to the Pasture Law are highly legible examples of the shift in the perspective in laws; “conservation” becomes “conservation while using, with the principle of sustainability”<sup>23</sup>. With 5226, conservation has become secondary to the “sustainable usage” of related areas while with 5178 pasture fields are opened to development. In both cases development and commodification of new lands become a part of the conservation laws. In other words, the antagonistic nature of conservation laws, antagonistic with reference to urban development, becomes synergist with development.

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22 Article No.7 clauses a and b.

23 A detailed work on the changes of the usage of the words can be found in Duyguluer, F. 2010, KBAM Conference Presentation, İmar Hukuku'nun Muğlak Kavramları.

With the law 5104, specifically designed for Ankara, focusing on the transformation of the northern entrance of the city, a massive amount of urban land, and *gecekondus* on it, has gone under transformation. In other words, previously urbanized land is recommodified and has become subject to transformation. In the year 2005, another significant law was passed, 5403, Law on Soil Conservation and Land Use. The aim of the law is described as “conserving and 'developing' land, with sustainable development principles which are undefined and obscure. Another significant part of the law is the definition of non-agricultural lands. These lands are defined as<sup>24</sup> areas planned as housing areas and for other uses. In other words, if an area is planned to be urban, than it becomes non-agricultural land. In addition to that, even the absolute agricultural lands and irrigated farming areas can be subject to housing development, if ministries considered development as public interest and produce projects accordingly.<sup>25</sup> With an amendment to this law made in 2007, Law No.5578 a temporary article authorizing the development over already developed agricultural land, granting pardon for development in exchange with a defined sum of money.<sup>26</sup> A similar law is passed in 2008, which now includes the pasture areas as well.<sup>27</sup>

In 2006, with Law No.5491, The Law on Environment has been changed, and the popular concepts, sustainable development and conservation-usage balance have taken their place in the law, and the authority on preparing environmental plan has been given to the Ministry of Environment<sup>28</sup>. In 2010, with the Law No. 5998, The Municipality Law has been changed. Widely known as Amendment of Article No.73 the commodification of surrounding rural areas has been fastened. Metropolitan municipality is authorized to produce plans of “Urban or rural, developed or non-developed land” and again the control mechanism over the 'overproduction of urban space is not in the agenda.

Decree laws 644 and 648 increased the authority given to Ministry of Environment and Urbanization, while bringing together the two different ministries theoretically working antagonistically to each other. As a matter of fact, conserving the environment is now in the hands of the urban development apparatus of state, which consequently fastens the process of urban development and which clears the way. This year, last month, to be specific, Law No. 6292, widely known as 2B Law, is passed. The forest areas that have lost their forest features, or so they say, are, from now on considered as possible urban development areas. It is crucial to remind that most of our cities, especially major ones are surrounded with 2B forest areas, which likely to be subject to urban development, most probably without a controlling master plan, or without considering the need. Supply is freed from need, and in some cases even demand. Another significance of this law is that, it enables the rent gathered from the sales of the 2B land be used in the massive transformation attack,

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24 Article No.3 Clause i.

25 Article No.13

26 Article No.6

27 Article No.2

28 Which later merged with Ministry of Public Works and Settlement and has become Ministry of Environment and Urbanization (2011)

as well as being the reserve land stock. The acceptance of the transformation law (Law on the Transformation of Areas under the Risk of Disaster) has brought the issue on a far different level. A draft law are of significance here; The Draft Law on The Conservation of Nature and Biodiversity which perfectly shows the change in the conservation perspective. The antagonist position of conservation laws has been lost. Production of urban space prevails.

As we summarized above, the planning system in Turkey is not a well defined and comprehensive system with clear boundaries and authorities, and it has a tendency to increasing entropy. If we add the changing perspectives on conservation to this, the picture will get clearer. The changes made in laws are bit by bit and not so well designed or well written, yet they are ideologically consistent. More urban development, more housing, more rent is the core of the changes. The boundaries of development, the limits are abolished, once and for all. Endless cities are inevitable.

### **1.3 Restructuring the Housing Sector: Highly commodified housing and state as an entrepreneur in the sector**

Ownership of housing and more development rights are what most of the society is 'praying' for; and answered prayers will cause more tear than that remained unanswered; tear for the future of the cities. 4966 is the number of law that can be considered as the first major step that has changed the housing sector dramatically. With this law, the law 2985, Mass Housing Law, has been modified, and the rise of the TOKİ has begun. Land office has been left under control of TOKİ, and TOKİ has been authorized to produce housing with wide authorities and housing projects for profit. Another significant authority given to TOKİ is the authority to give credit in demand for housing. The unstoppable rise of TOKİ has begun with this step. Following this, in the year 2007, a law on housing finance, law no 5582 has passed. With this, state now pursues not only the supply side but also the demand side, to assure the consumption of produced housing. Mortgage system is not as developed as the ones in western countries but the long term credits are gaining ground in housing market. The middle class, the real target of mortgage system is indebted for long term.

In recent years, the role of housing sector has been increased in economy. The sell and build structure in the market made it less risky to produce housing for the provider and the market is stirred with the help of changes in laws, and with acts and encouragements of government. While European countries one by one fall by crisis, this is the reason that Turkish economy has somehow survived: the late massive urbanization. As the mayor of Istanbul, Kadir Topbaş has said It is the achievements in the construction sector that enables us to say that we did not face the crisis that is

taking place in global scale<sup>29</sup>. But the future is not as bright as Topbaş and in general members of JDP are declaring.

The three axes of change in general lead to an increase in demolish and build urbanization. Existing parts of the cities are under transformation in mass scale and the surroundings of cities, the rural areas on the periphery are as well. This creates a specific form of development, which is repeating itself everywhere. In the following years the housing typology and urban space produced in this era will be named specifically and criticized most probably. Planning, as we barely know it, will come to an end, if the draft law on Transformation of Areas under Disaster Risk is passed.<sup>30</sup> As an underdeveloped country, with a state that does not have enough capital accumulation under its control; a strong and powerful planning process, and planned urban development is not what we have experienced. Moreover, it seems like we are not going to experience it in near future as well. Unplanned nature of Turkish cities, solidified in the case of Ankara, is brought into a new era with the mass housing movement and the housing sector following mass housing approach of TOKİ, in spatial terms. This time, the problem is not only basically the unauthorized housing, but also and mainly housing produced in planned areas. (Yaşar, 2010)

JDP has discovered the power of housing in discourse; in reproducing political power. State as a strong actor in housing sector, without a concern of solving the housing problem of society including poor, and with a market and profit oriented approach strengthens the power of government as we observe up to now. Later or sooner, with this pace of production, the housing sector will enter into a crisis, with an excess of supply, and with over-urbanization of land.

## 2.4 Laws and Context

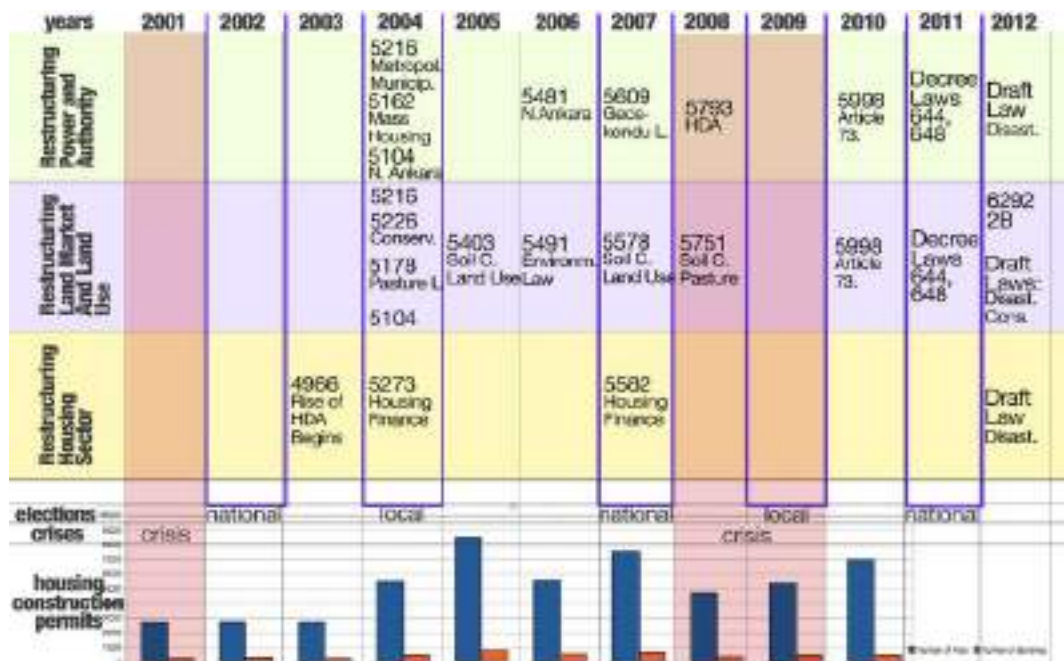
Table 2. Classification of The Laws Analyzed, National-Local Elections, Crises and Housing Construction Permissions<sup>31</sup>

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29 [http://www.hurriyetemlak.com/gyoder\\_raporunu\\_acikladi/emlak-yasam-sektorden-haberler/F05M2G4j1Ks=/DjCVhESiNJk=](http://www.hurriyetemlak.com/gyoder_raporunu_acikladi/emlak-yasam-sektorden-haberler/F05M2G4j1Ks=/DjCVhESiNJk=) 14.05.2012. Accessed in May 19<sup>th</sup>, 2012.

30 After we have written this paragraph, it is passed.

31 TÜİK, 2001-2010 Housing Construction Permission Statistics, [www.tuik.gov.tr](http://www.tuik.gov.tr), Accessed in May 8<sup>th</sup>, 2012.



The main breakpoint in the laws has taken place in 2004, and right after that, the construction permissions have increased. In general, in years the permits are increasing in number, and with the acceptance of the law on the transformation of the areas under the risk of disaster, this will likely to boom. The crisis took place in 2011 all over the Europe, which is continuing, is not included in the table due to its lesser impacts on Turkey. Thanks to construction sector and the boom in the housing market, the arrival of the crisis has been delayed.

### 3. Space Produced In The Case Of Ankara: TOKİfication and Apartmenized Cities

One most important result of these changes in the legal framework is the mass housing movement, taking place in national scale, transforming the housing sector widely and deeply. Not only TOKİ became the main actor in housing sector, but also the scale of the housing projects has been changed. Especially the mass housing provision for middle class has been accelerated, and a single form of stereotype housing dominates the market; that is: point block, generally high-rise, banal apartment blocks in the middle of car parks, without street and centers.

The legal framework of production of urban space and housing is as complicated as summarized above. However this complexity, in a sense, is not observed in the produced urban space. Same old story goes everywhere. Repetitive spaces without identities are the widespread result of demolish-build urbanization. Whether it be on the periphery, or core of the city; this fact does not change. In this part, the contemporary urbanization of Turkish cities, framed by the laws summarized above will be summarized in visual terms. The reasons and results of this form of urban

development, which is purposefully left outside of this paper, have to be debated as well. Within the framework of this study, we will focus on illustrating the urban space produced, with the legal framework drawn after 2002.



Figure 1. TOKİ Karacaören, North Ankara, G.Earth, Accessed in May 19<sup>th</sup> 2012.



Figure 2. Mamak Municipality, Mamak, , G.Earth, Accessed in May 19<sup>th</sup> 2012.



Figure 3. Ankara Metropolitan Municipality, Mamak, , G.Earth, Accessed in May 19<sup>th</sup> 2012.



Figure 4. Altındağ Municipality, Altındağ, G.Earth, Accessed in May 19<sup>th</sup> 2012.



Figure 5. Yenimahalle, North-West, , G.Earth, Accessed in May 19<sup>th</sup> 2012.



Figure 6. Ümitköy, West Corridor, G.Earth, Accessed in May 19<sup>th</sup> 2012.



Figure 7. Yaşamkent, West Corridor. G.Earth, Accessed in May 19<sup>th</sup> 2012.



Figure 8. Eryaman, 2010, Personal Archive.



Figure 9. Park Oran, 2010, Personal Archive.



Figure 10. TOKİ Turkuaz Konutları, West Corridor, 2010, Personal Archive.



Figure 11. Yenimahalle, 2010, Personal Archive.



Figure 12. West Development corridor of Ankara, From Yaprıcık, 2010, Personal Archive.

#### **4. As a Conclusion: Bringing the Debate up to Theoretical Level**

One of the most prominent writers in the field of urban geography, David Harvey, constructs a theory (on the Marxist ground) for understanding the urbanization under the capitalist mode of production. The flow of capital into the urban environment can be explained by the over accumulation in the primary circuit of the capital and the

flow of capital from the primary to the secondary circuit. (Harvey, D, 1985; pp.3-7) Production of urban space takes place in the secondary circuit of capital. In advanced capitalist countries, this theory can be applied for explaining suburbanization and urban sprawl. In the periphery countries, countries that are underdeveloped, it cannot provide a suitable explanation at first sight. As Balaban states (2008), it is rather through the interventions of state that capital flows to the secondary circuit of capital. In other words, it's not the over accumulation problem in the primary circuit but the state policies that has given rise to the production of urban space. With the laws explained and summarized above, this pattern becomes clearer. The question of the reason why state has chosen to encourage urban development is of importance here. State is not a self generated entity isolated from the capitalist society. State has impact on society and the reproduction of capitalism, yet it is also under control of it.

Several critiques are made on the theory of Harvey considering urban development as a secondary circuit of capital, where in the primary circuit of capital; excess surplus is acquired. Harvey was criticized by being too economic deterministic; ignoring the role of actors.(Balaban, 2008) Especially in the case of under developed, periphery countries such as Turkey, the process differs as we mentioned above. If the ideological apparatus of state, laws are considered as well, the reading will be more complicated. Is this the only way that capitalism realizes itself in the field of urbanization, urban development and housing in the form of laws and legal framework; or is this one of the selected possibilities? What is the impact of the changes on the future of our cities? Or on rural areas; the 'insignificant' rest? “A *general condition*” says Harvey (1985, p.7) “*for the flow of capital into the secondary circuit is therefore, the existence of a functioning capital market and, perhaps, a state willing to finance and guarantee long-term, large-scale projects with respect to the creation of the built environment.*” Furthermore, a credit system, creating “fictitious capital” is also needed. In the case of Turkey, we have both, but some unique elements have to be mentioned. First of all, State (TOKİ) is the most important and one of the most powerful actors in the housing market. After the acceptance of the transformation law<sup>32</sup>, Ministry of Environment and Urbanization and TOKİ have become much more powerful over the housing market. In other words, state rules the market, with a power converging to absolute; which is an altered form of capitalism, not liberal but capitalist. The second issue is, in the case of Turkey, the process in the provision of housing is reversed. It is not build and sell, rather its sell and build. To put bluntly, whether it be a housing area produced by public sector or private sector, the builders first sell the rights of housing and with the money they get, they build. This characteristic of housing production makes it less risky and more guaranteed for the builder; and makes it more investment-like for the buyer. You pay for a house which does not exists yet, so you pay less, and in the following years, when it has been built and surroundings are urbanized, the price will increase dramatically. Commodification of housing as an investment good, together with state policies and sell and build production of housing, has made “the built environment for consumption” (Harvey, 1985) highly profitable that it has become

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32 The Law on the Transformation of Areas under the Risk Of Disaster.

one of the core elements of the economy in Turkey. Harvey says, “the main thrust of the modern commitment to planning (whether at the state or corporate level) rests on the idea that certain forms of investment in the secondary and tertiary circuits are potentially productive”, in our case we are sure of this potential due to the state policies and the sell and build system, at least for now. The question, “where the capital embedded into urban land does come from?” is a vital one. Turkey is a country with high levels of foreign debts, and the debts are continuing to accrue. We can assume that, a significant part of the housing finance comes from external resources, which are the developed countries. If this is the case, Harvey's theory is applicable in global scale, from advanced to underdeveloped countries.<sup>33</sup> We can think in global scale and explain the flow of capital from the primary circuit to the secondary circuit with over accumulation, but accepting it and ending the debate here will be cutting corners.

In the case of Turkey, housing has become so central that construction sector is named as the locomotive sector. The built environment for consumption has become one of the most important commodities produced. It has nearly replaced the production taking place in the primary circuit of capital. But it is a very unique commodity; it consumes land. Land is becoming scarcer in time. Housing is not disposable and the numbers of flats are rising in time. Moreover, it's a commodity that the potential buyers are strictly defined and grouped; not anyone can buy any house. It is a primal need as we all know, but this commodification has divorced the demand from the need. With this sort of unproductive production; a secondary circuit dominance over the primary circuit, crisis is inevitable and close.

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33 As in the case of Iraq war and the urban transformation taking place nowadays. War took place, cities are destroyed, and now they are under construction by the hands of companies mostly originating from developed, western countries. War has been fostered urban development and by doing this, has become a solution for the crisis for short term.

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