

Security of tenure in Istanbul: the triumph of the ‘self service city’

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Contemporary Turkey has a patchwork of land tenure arrangements. On the fringes of most cities, there is far more land held by the government and under no-longer-legal shared titles than there is privately held property. As this description of several squatter neighborhoods far out on the Asian side of Istanbul shows, despite the lack of private titles to their land, many of the country's squatter communities have achieved permanence, and are almost indistinguishable from nearby legal neighborhoods. Through discussions with residents of Sultanbeyli and neighboring communities such as Sarigazi and Paşaköy, this essay seeks to determine what causes some squatter areas to succeed while others fail. Sultanbeyli, Sarigazi, and Paşaköy all experienced a major influx of new residents over the past two decades. But while Sultanbeyli has developed and gained secure status and access to infrastructure including water, sewers and electricity, many residents of Paşaköy still don't have the same level of municipal services or security. And some residents of Sarigazi who did receive private land titles are struggling and might have been better off if they had remained as squatters rather than purchasing their property title. The essay argues that the key determinant of why some squatter communities prosper and grow and others don't is whether they have a powerful avenue into the political system.

Turkey's system of land ownership owes its existence, in part, to Istanbul's history as the center of the Ottoman Empire. The Ottomans, the superpower of their day (and a long day it was, lasting from the 13th century to the early 20th century), had a different notion of land ownership than Europe does today. Essentially, all land was property of the Sultan. A favored few received imperial grants of land. But that designation wasn't ownership as we know it. The Sultan granted only the right to collect rents from the land. In return, the Sultan expected landholders to supply soldiers for the military. The holder of this kind of title could sell the designation or pass it on to his heirs, but the right to the land was always revocable on the Sultan's whim. Tenancy, by contrast, had more protections, and a small farmer could pass his lease on to his children without fear of it being expropriated by the Sultan. Ottoman land law protected the use of land, not control over the commodity value of land. As late as 1858, the empire's law gave citizens the right to seize vacant parcels owned by the government, as long as the appropriators were willing to use the property — to give it some function. The laws regarding land were designed to keep farmers farming, soldiers fighting, and the empire growing. By the second half of the 19th century, however, military reversals and palace intrigues had reduced the power of the Sultans. The rulers could not keep the fractious empire together. To shore things up, the Sultans started adopting laws similar to those in northern Europe: giving outright property ownership to ensure the loyalty of their beneficiaries.

After Mustafa Kemal Atatürk led the country to independence in 1923, the government adopted Roman laws, which endorsed private ownership (at almost the same time, Turkey adopted the Latin alphabet). But tradition dies hard, and the Roman concept was simply laid on top of customary Ottoman traditions. Now, the two sets of conflicting laws coexist uneasily. In many of Turkey's cities, huge tracts of land remain either under federal control or owned through an ancient outmoded tradition called *hisseli tapu* — or shared title — in which the shares have not been apportioned and most share-owners have no idea even how many other shareholders there are. Millions of squatters — many of them impoverished migrants from the rural eastern parts of the country, including many from the Kurdish region at the Iraqi border — came to the cities over the last 50 years and made use of this tradition, taking over land that was not in private hands and where, therefore, they would be less likely to be

evicted. Many of their communities have thrived in this arrangement, and feature well developed infrastructure and popularly elected governments, despite the fact that the residents still do not have a legal claim to the land.

* * *

They all laughed.

Six men laughing because an outsider didn't understand their concept of land ownership. They sat in a teahouse in a dusty patch of Istanbul called Paşaköy, far out on the Asian side of the city.

The tea, the men joked, was exotic — it had come from afar. Sadik Çarkir, the teahouse owner, reported that he had hauled the water from a spring several kilometers away in the woods. At almost the same time he spoke, several women strode down the street with five buckets in a wheelbarrow. They were making a run to the source.

In Paşaköy, the streets are dusty cuts hacked into the scrubby hills. Each home, too, is caked with red earth. And the giant blue plastic water barrels that stand like shrubberies in front of each house — the tubs in which they store their haul from the fresh water spring — are also streaked with the rust colored dirt.

“Tapu var?” a researcher asked. “Do you have title deeds?”

They all laughed. Or, more accurately, some laughed, some muttered uncomfortably, and some made a typical Turkish gesture. They jerked their heads back in a sort of half-nod and clicked their tongues. It was the kind of noise someone might make while calling a cat or a bird, but at a slightly lower pitch. This indicates, “Are you kidding?” or “Now that’s a stupid question,” or, more devastatingly, “What planet are you from, bub?”

The researcher blundered on. “So who owns the land?”

More laughter. More clicking.

“We do,” said Hasan Çelik, choking back tears.

“But you don’t have title deeds?”

This time they roared. And somebody whispered, “Why is this guy so obsessed with title deeds? Does he want to buy my house?”¹

* * *

To understand Turkey’s squatter communities, it’s important to open yourself to a completely different sense of property ownership than exists in Europe and North America. It’s a system of land tenure more rooted in the legal rights of communities than in the apparatus of title registration and the clean pieties of private property. While it may seem unruly to outsiders, it has enabled Turkey to accommodate massive urbanization in a sensible and successful way by harnessing the power of self-building and sweat equity.

For instance, it’s likely that the land under Sultanbeyli’s seven-story City Hall belongs to thousands of people who have no idea they own it and have never even heard of this obscure outpost far out on the Asian side of Istanbul.

1. This and other anecdotes in this essay are taken from Neuwirth, 2005. The characters are all real and, where possible, identified by name. This discussion appears on pp. 18-19.

That's because 70 percent of the land in this squatter metropolis is held under *hisseli tapu* — or shared title. It's an ancient form of land ownership that is no longer an official part of Turkish land law, but it remains common on the fringes of some of Turkey's largest cities. *Hisseli tapu* exists where parcels of land have never been divided into exact lots and ownership has never been apportioned to individuals.

"There might be thousands of shares," explained Mustafa Karataş, who formerly served as the city's communications director. "It's not even certain how many square meters is one share. And even if you had one share, you could have built on five."

You might think that this would present a problem to Sultanbeyli's 300,000 residents, that they might fear eviction at the hands of the rightful owners of their land. But this isn't the case.

In fact, Sultanbeyli has expanded despite this anachronistic form of land ownership. Between 1986 and 1989, people erected 20,000 houses in Sultanbeyli and the city now boasts 150 major avenues, 1,200 streets, 30,000 houses, 15 neighborhoods, 300,000 people, 91 mosques, 22 schools, 48,000 students.²

It's like this in many squatter neighborhoods around Turkey. Though they started as assemblages of crude shacks without title deeds and lacking any sanitary services, many of the country's squatter communities have become permanent parts of their cities.

A study of land rights in Istanbul indicates that the historic city of the Sultans is, as writer Orhan Esen has dubbed it, a "self-service city," a place where nobody owns but everybody builds. The success in self building is due to their two major factors that have nothing to do with property rights.

The right to build overnight

It was not yet a town when they seized the property, just a field full of weeds and rocks and snakes, land you wouldn't notice, treasury land, owned by the federal government, way out on the Asian side of Istanbul, almost as far as you can get from the historic city of the Sultans and still be within the city limits. This was where they decided to make their stand. They waited until nightfall, then descended on the land and built their homes.

The authorities caught them and tore the buildings down.

So they waited, bought new materials, and took the land again. Once again the police moved in.

They had no homes. They were living in makeshift tents on the side of the road. They were desperate. But they learned. The third time, they made friends with someone who knew some city officials (perhaps some money even changed hands) and, finally, they made it through the night.

Ulter Kaya crouched in the meager shade of a parched tree outside that house that she and her husband built that night in 1987, and served glasses of homemade *ayran*, a salty yogurt-like drink. Her brother-in-law, Hussein Baykara, who joined her in the initial invasion, joined the conversation. "We would just finish it and they would knock it down. Always we had just put on the doors or the roof. It was frustrating."

2. Sultanbeyli Belediye Baskanligi, 2002.

They survived that first night only to find that every day was a struggle. They had no water, no electricity, no sewers. They hauled water from a well. They stole electricity from the poles that ran to the factories farther out of town. They grew their own food. They bought milk from one woman who lived nearby and owned a cow. It would have been easy to have no hope. But this was where they put down roots. This was where they raised their families. This was where they finally made the city their own.

This small community in Sarıgazi (just down the road from Sultanbeyli) and hundreds of others all over Turkey all followed the same pattern. They took advantage of an ancient Turkish legal precept: that, no matter who owns the land, if people get their houses built overnight and are moved in by morning, they cannot be evicted without being taken to court. The original self-builders erected their homes in deference to this model: they framed them out and installed doors, windows and the roof in one night. That way, when the authorities found them in the morning, they could not simply be bulldozed, but had to be taken to court instead.

This is why squatter housing in Turkey is called *gecekondu* (pronounced ‘geh-jay-kondoo,’ the word is a combination of *gece*, “night” in Turkish, plus *kondurmak*, “to happen” or “appear”), meaning “it happened at night.” Almost half the residents of Istanbul — perhaps six million people — dwell in homes that either are *gecekondu* or were when they were first constructed.

Gecekondu land invasions became a noticeable phenomenon in Turkey in the early 1940s. By 1949, the Turkish government made its first attempt to regulate such constructions by passing a law requiring municipalities to destroy the illegal dwellings. But this proved politically unpalatable, so four years later the government modified the law, allowing existing *gecekondu* to be improved and only mandating demolition of new developments. In 1966, the government rewrote that law again, granting amnesty to all *gecekondu* houses constructed over the 13 years since the previous law had been enacted, and adding new programs to promote development of alternatives to *gecekondu* housing.

The government handed authority to enforce this law to the municipalities. Given that squatters are voters, this made it very unlikely that politicians would rein in the overnight builders. Statistics in Istanbul show the growth. In 1958, city authorities counted 40,000 *gecekondu* houses in Istanbul, with a population of 280,000 people. By 1963, that had tripled to 120,000 houses with a population of about 660,000 people, or close to 35 percent of the city.

By 1984, the government essentially gave up the fight against already existing squatters. It passed a new law that again gave amnesty to all existing *gecekondu* communities and authorized the areas to be redeveloped with higher-density housing. Even without planning permission, squatters quickly realized that they could take advantage of the new law. They began ripping down their old-fashioned single-story homes and building three- and four-story ones, of reinforced concrete and brick. Around this time, a government census showed that the number of *gecekondu* buildings in Istanbul had jumped to 208,000. In 1990, the government issued a new *gecekondu* amnesty, again essentially accepting all the illegal neighborhoods that had already been built.

By that time, most of the original *gecekondu* had become highly urbanized, with many of the services legal neighborhoods take for granted. So what if they didn’t have title deeds?

The right to access politics

Yahya Karakaya came to Sultanbeyli in 1969. He was 4 years old, and all he remembers is a sleepy community of two dozen families in a wooded valley on the Asian side of Istanbul.

The villagers raised cows, sold the milk to passing city-dwellers, and harvested lumber from the vast forest around them. There was one bus that left early every morning to bring workers to the port at Kadikoy. If you missed that one bus you had to walk, or hitch a ride on a farmer's tractor, which would take hours.

Today, Sultanbeyli is an independent squatter metropolis — population 300,000 — and Yahya Karakaya was, until recently, its popularly elected Mayor. From an oversized desk in a cavernous office on the seventh floor of the massive squatter City Hall, Sultanbeyli's Mayor presides over an empire that includes everything you thought squatters could never achieve: a planning department, a department of public works, a sanitation department, and its own municipal bus service that runs from early morning till late at night. Fatih Boulevard, the city's main drag, is 5 miles long and boasts a strip of four-, five-, and six-story buildings complete with stores, restaurants, banks, and real estate brokerages. This illegal city even has its own post office.

With this level of development, Sultanbeyli has taken the quaint notion of squatter construction to a new level. "We are not *gecekondu*," the former Mayor said with a smile. "We are *gündüzkondu*" — happening during the day.

Though it remains a squatter area dominated by *hisseli tapu*, Sultanbeyli today is almost indistinguishable from many legal neighborhoods in Istanbul. Here's how it was able to grow.

Under Turkish law, communities with at least 2,000 residents can organize and apply to the federal government for approval to organize as a quasi-independent municipality. Communities can register as a *belediye* (municipality) or an *ilçe* (district). The technical requirements are different, but the result is the same: access to politics. In a giant city like Istanbul, every resident — in legal neighborhoods as well as illegal — is actually a citizen of two elected governments: the *Büyük Şehir*, or "big city," and the *belediye*. Every resident has two mayors: one from the big city and one from the small.

But squatter communities get a key benefit from becoming a *belediye* or an *ilçe*: they gain the right to organize elections and create a local government. That government, in turn, can exert control over many aspects of land use, can pass and implement local plans, and can even collect revenues to fund government services. And if the local politicians are particularly savvy, they can negotiate with the bigger cities in which they are located to expand infrastructure and city services.

Though this process can sometimes be contentious and even violent (though the violent agitation tends to be sectarian — Roma (gypsies) vs. Turk or Sunni vs. Alevi or left wing vs. right) — these negotiations most often end in productive action, and have led to changes in local land laws and planning policies.

Sultanbeyli became a *belediye* in 1989 and an *ilçe* in 1992, and using those powers, the district has successfully negotiated with one of the big city government's agencies to fund a \$90 million project to run water and sewer pipes to every home. By 2002, two-thirds of the city's neighborhoods had water available to every house. Streets in the remaining five neighborhoods were already being ripped open so the massive water mains could be installed.

The larger point: where squatters have been able to engage in politics, they have been able to improve their communities, to engage with larger units of government, to knit their self-built outposts into the fabric of the cities. In short, they have become true citizens, even if they still do not have land titles.

* * *

So do private titles offer a way forward for the squatter neighborhoods of modern Turkey?

Sultanbeyli may become the latest test case of this theory. That's because the squatter metropolis is mapping all the lots within its boundaries so that it has a record of all the buildings and property lines in town. The survey alone, the former administration reported, will cost approximately \$625,000 and this will have to be funded by the townspeople. Then the city must research who has paid what for the right to the land. Ultimately it will try to buy out the *hisseli* owners and resell the land as private parcels — what's called *ifrazli tapu* — to local residents. The price, said former town press officer Mustafa Karataş, is likely to be approximately \$1,200 for the average parcel, payable in installments.

Karataş believes that having true private ownership in Sultanbeyli will be unbelievably positive. "The people will have many opportunities. Like if you want to get a credit card, you will be able to show you have an asset. People will be able to leave their house to their kids and return home to their village. And it will never be lost. No one will be able to dispute your title, because the municipality will have a record of it."

From her modest home in nearby Sarıgazi, Selvi Kaynak might disagree.

Kaynak is a squatter. Together with her brother, she built her home 15 years ago just a few kilometers down the road from Sultanbeyli. The plot is 130 square meters. She bought the land from a man who lived nearby for approximately \$80. Selvi understood that this purchase didn't mean she actually bought the land. She knew the piece of paper he gave her was worthless. She knew that he didn't really own the property, and therefore neither did she. But he was part of a land mafia and had taken control of the parcel. He would have ratted her out to the authorities without the payment. So she paid. About a dozen other families did the same thing. Her brother built the house, then turned it over to her. It is a snug single story plaster and wood dwelling, its roof little more than corrugated plastic sheets placed over a wood frame: not much, structurally, but enough to repel snow and rain. To prevent leaks, the plastic roof sheets hang out 2 or 3 feet beyond the walls, giving the house a drooping, gingerbread look.

In those early years, Selvi and her neighbors had to cart plastic drums to a Nestlé plant a bit more than a kilometer away from their homes to get water. The neighbors strung their own wires, looped from house to house, and stole electricity from poles on a nearby street that led to other factories. And they dug a pit between Selvi and her neighbor, where they placed a large plastic tank that functioned as their sewage system. When it got full, they pooled their money and hired a company to come and empty it.

After two years, the local municipality began trucking in fresh water every week, and they would fill large plastic drums that would last them a week. Two years after that, the *Büyükk Şehir* brought water and sewage lines to the community. Electricity is now legal, too.

Selvi and her neighbors were offered the opportunity to purchase their title deeds from the municipality, which pursued the same strategy that Sultanbeyli is contemplating. Selvi's *tapu* cost \$1,250. But her factory job brings in a little less than \$100 a month — and that meager check must support Selvi, her son and her aging mother.

So, to buy the *tapu*, she had to go into debt. She got half the money as a loan from the municipality and the other half from a friendly uncle. She pays almost \$20 per month to her uncle every month, although he is pressuring her to increase her payments dramatically because he is planning a pilgrimage to Mecca and needs the money. She has yet to pay anything on the loan from the municipality.

As she munched on an apple from a tree that sprouted in front of her house, Selvi ticked off her expenses. After paying the loan plus food, utilities, household expenses, bus fare, and cigarettes (a very important expense to most Turks), if she resists all other temptations, she can save about \$6.25 a month. Some of her neighbors make extra money by having their kids work. They have arranged with local factories for the kids to piece together small metal clips: the kind you might find on backpacks or dog leashes. They get 20 cents for every kilo of clips they finish. But she says her 6-year-old son, Mert, is too young and undisciplined to be doing this, and, besides, Selvi said, a child shouldn't be forced to work.

Looking out on her lush garden of beans, tomatoes, corn, and squash, Selvi pointed to the plastic barrels she had placed in the sun, so her family can have warm water in which to bathe and wash dishes.

As darkness fell, Mert heard rustling in the garden. He ran to inspect. A porcupine, he shouted. Two of them, in fact. They were tucked into tiny balls, their small snouts and round red eyes peeking out over quivering quills.

"The meat is very good," Selvi said. "It's *halal* [the Muslim equivalent of kosher] and also very medicinal. Good for problems with the joints. Good for rheumatism."

It was an idyllic moment, if you didn't take into account the fear that this hardy woman must feel for the future. For the economic scorecard shows two things Selvi doesn't say.

First, without squatting she would either be homeless or hungry. Rents in Asian-side areas of Istanbul near Sultanbeyli and Sarıgazi are close to \$62 a month. That would be two-thirds of Selvi's income, and at that price she would not have enough money to feed her family.

And second, she'd be better off if she had remained a squatter and had not been forced to buy her *tapu*. Without the expense of paying back her loan, she'd have \$18 more every month for food and expenses. She wouldn't have her uncle breathing down her neck and the municipality asking for its money. And without the expense of the title deed, Selvi might even have the ability to save more than \$6.25 a month — and this would enable her to improve her house and plan for the future. Her neighbors, too, are troubled. One of them, who also bought her *tapu*, can no longer afford to pay her electric bill, and so is once more living without electricity, just as she did after the initial land invasion 15 years ago.³

If Selvi and her neighbors are any indication, buying out the *hisseli tapu* owners and selling private titles may not be the boon that Mayor Karakaya and his minions think. Indeed, with Istanbul continuing to grow, it's also possible that selling private titles could set off a frenzy of speculation in Sultanbeyli. Illegal ownership, while perhaps legally precarious, is perhaps safer for poor people because they don't have to go into debt to create their houses. They build what they can afford, and when they can afford it.

Indeed, many in Sultanbeyli are balking at the idea of paying a fee for their land. In the city's Akşemsettin neighborhood Zamanhan Ablak, a Kurd who came to Sultanbeyli in the mid-1990s, reports that his family initially paid approximately \$1,500 for their land (they registered their new right of possession with the local *muhtar*, an elected official who functions as a kind of justice of the peace.) They also paid \$120 for the city's permission to erect a new building, and approximately \$400 towards a neighborhood fund dedicated to installing drainage culverts and building a mosque and a school. Zamanhan, who works as a waiter in his cousin's kebab restaurant, is already protesting the fact that Sultanbeyli is charging residents \$160 to hook into the water system. He explained his irritation with a little

3. Neuwirth, 2005: 150-151.

wordplay: The city's fee (*ruhsat* in Turkish), is nothing more than a bribe (*rusvet* in Turkish). So, Zamanhan asked, "*Ruhsat, rusvet: what's the difference?*" Zamanhan and many of his fellow Akşemsettin residents don't look favorably on the idea of having to shell out more money to purchase a title deed for a parcel that was unused and unwanted when they arrived.

After all, they say, it is through their own work that many of these *gecekondu* areas have become indistinguishable from legal neighborhoods. Through a combination of political protection and dogged building and rebuilding, they have developed their own communities into thriving commercial and residential districts that are desirable places to live.

To be fair, the shrinking amount of available urban land has created a new tension within squatter communities. Gone are the days when new arrivals can simply invade land and build overnight. Today's new urban migrants mostly become tenants in older squatter areas. This will likely have a significant impact on the squatter communities in *gecekondu* communities in which they live.

But there's a greater threat looming: Turkey's historic tolerance for squatters is coming into conflict with a more modern goal: the country's desire to join the European Union. In a move that seems intended to placate fears in European capitals (and among upper class Turks) that the country's informal land ownership breeds criminality and makes it a bad candidate for inclusion in a united Europe, Prime Minister R. Tayyip Erdoğan has been evicting and demolishing *gecekondu* communities in Ankara and Istanbul, and plans to replace them with government-funded social housing.

"Last week the Housing Council issued the final ultimatum on these shantytowns," the Prime Minister said at a press gathering in April 2006 to celebrate Istanbul's selection as the European Capital of Culture for 2010. "Can we say that city mayors have gotten the message? This started in Istanbul, where the municipality has so far torn down 5,000 buildings. But I'm not satisfied that it's enough to do this in Istanbul."⁴

To those in the know, this presents an amazing political irony, for Erdoğan was the *Büyük Şehir* mayor when Istanbul made deals to provide services to many *gecekondu* communities. Turkey's squatter citizens strongly backed his campaign for national office.

Despite the newfound resistance from the national government, the political leaders of Sultanbeyli have big plans. "I want Sultanbeyli to be very aesthetic," former Mayor Karakaya said. "I want more leisure and modern things, more teahouses and parks and public services." While he was Mayor, he allocated the money for eight public parks to be constructed and trees to be planted on major streets. And he was starting to look at funding social and economic programs, like carnivals and markets.

And the city hopes to one day become part of the *Büyük Şehir* (being just outside the Istanbul city limits, Sultanbeyli today is still independent.) The leaders know that this would infringe on the power of Mayor Karakaya and the Sultanbeyli administration. "It has both advantages and disadvantages," said past Sultanbeyli communications director Mustafa Karataş, "Yet we would still like to do it. They have very rigid rules regarding construction and they would take about 30 percent of our tax levy. But in exchange for that, they would make all repairs to the infrastructure. So in that sense life will be better."

What Sultanbeyli wants, in short, is what every neighborhood or small city wants: to be a comfortable, enjoyable and lively place to live.

4. Turkish Daily News, 2006a.

Down the road a few kilometers, in the squatter village of Alemdağ, that comfort, enjoyment, and liveliness already exist. Here, fifteen people sat on a top-floor balcony as the building owner — a burly, bearded, high-spirited man, a *pazarci*, who sells artificial flowers at various local bazaars — grilled chicken wings and told jokes. His home was a true squatter extravaganza. Working in partnership with a friend, he erected a five-story apartment house that features a central spiral staircase. Each of the spacious apartments has a large balcony. These squatters live the good life, their apartments bursting with furnishings: hutches filled with glassware, large dining tables, and display cases with knickknacks. The kitchen had a refrigerator and dishwasher, and the pantry had a brand new washing machine.

The *pazarci* peered over the railing at the edge of the balcony, pointed at a vacant lot across the street, and spoke to his guests: “You come and build there. The land will cost you nothing and you can put the money you save into the home you build.” He spread his hands across the horizon, taking in not only the view of the orderly rows of self-built buildings that made up his neighborhood but all his friends on the balcony. The crescent moon was behind him, and a few stars, as if stolen from the Turkish flag and pasted high above the squatter community. He laughed a great laugh, his whole body moved by his mirth, and offered a final piece of advice. “If you do this,” he said, “you will be free.”⁵

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5. Neuwirth, 2005: 172-173.