



Evaluation of Law no.6306 from Perspective of Public Spaces – Gezi Park Case

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Abstract

Cities in Turkey, especially Istanbul are under pressure of national and international capital flows which are assigned by free market economy and globalization processes. While the pressure results in partial urban development far from integrated approach, an alternative idea advocating public space has been seen as tilt at windmills. However, a paradigm supporting public place led planning and design and taking public space and public interest forefront in the face of social segregation has been an important issue while legal and administrative arrangements are also very crucial in terms of practicality.

Keywords:

Law no. 6306, Public Spaces, Gezi Park

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This article aims to present the transformation of urban public spaces and define the effects of legal instruments to this transformation. In that context, firstly transformation of public space during historical process is clarified. In that sense, the concept of urban transformation which has become a worldwide vital issue on renewing the city parts suffering from physical and social deterioration is examined comprehensively in Turkish context. After the former processes and legal instruments concerning urban transformation are evaluated, the last approved act called as Law No. 6306 on Transformation of Areas Under Disaster Risk is examined in detail in terms of public ownership and public space approach. In this regard, it is concluded by the study that the law no. 6306 puts the existence of public space and public ownership into risk. On the other hand, it is also seen that conducted urban transformation projects are mostly disconnected from general plans and built without considering social and economic aspects because of market oriented planning, capital flows and partial planning which cause greater problems by creating short term solutions instead of long term.

When the Gezi Park process and related questionnaires conducted for the study are evaluated, it is possible to see that public space perception of society changed drastically while the awareness has risen. However, defining public space and its ownership is still such a complicated task for citizens. On the other hand, it can be said that society can be a part of public space only when its freedom of thought and expression about urban problems and public interest are assured. Nowadays, preserving public space in our cities developing through free market conditions will be only possible if society could be a part of it and legal instruments can be revised for that purpose.

INTRODUCTION

Throughout history, cities have offered a place for freedom and accommodated differences. Ideological and social developments have taken place in urban spaces where differences, different cultures and ideologies gathered together. Therefore, significant attention should be paid to public-oriented planning and design of urban spaces in the face of social segregation and disintegration experienced in cities. However, cities in Turkey are mostly transformed under the pressure of international and national capital.

The most recent legal instrument governing urban redevelopment, the Law no. 6306 on Transformation of Areas under Disaster Risk contains quite controversial provisions

relating to many paradigms. Its uncertainty over public property and public spaces, and the Ministry of Environment and Urban Planning as the sole authority in this field leave all the public spaces at “risk”. Gezi Park, a ‘saved’ public space in the backdrop of protests, is still exposed.

This study browses through the literature on public spaces and urban redevelopment, while evaluating the Law no. 6306 on Transformation of Areas under Disaster Risk. Thereafter, the perception of public space is evaluated from the perspective of different segments of society via questionnaires related to Gezi events. The study concludes how actually the aforementioned Law may itself pose risks for our public spaces in the light of experiences gained from Gezi events.

PUBLIC SPACE

Social and political spheres, in other words, private and public spaces, were first separated from each other by Aristotle who argued that citizens existed in two separate spheres: private (idion) and public (koinon). Accordingly, he drew a certain line between them (Uzun 2006:34). Jürgen Habermas, a prominent thinker, similarly describes public sphere as the sphere characterized by processes, instruments and spaces of private people who come together as a public to discuss on a common issue and engage in a rational debate, following which they create a common opinion, i.e., the public opinion (Habermas 1995:64). Public space, while accommodating a public opinion, offers a space where people can interact, communicate and socialize. Therefore, it is significant as an arena of social life, therefore, of urban space.

City as a notion is primarily associated with the production of a public sphere where social changes and interactions take place. This is why cities, throughout history, have been the space for freedoms and witnessed co-habitation of differences. Ideological and social differences have always emerged in an urban public space that harbored a diversity of cultures and thoughts. (Bilsel 2009:2).

Recently, our cities have been relentlessly dominated by globalization and free market economy, gradually resigning themselves to the control of more withdrawn, self-enclosed spaces. Contemporary urban planning processes are also challenged by such an issue which, in fact, is the indication of social and spatial segregation. Thus, urban planning, together with its processes such as design and preparation, has an important role in creating channels of re-integration, re-

development of common grounds, and re-construction of urban, spatial and social frameworks (Keskinok 2009:1).

Public spaces are owned by the public sector. Urban public places, by “being” public in essence, are basically the most critical instrument of urban redevelopment because they belong to the public who can monitor the processes of redevelopment and operation. Therefore, they can be redeveloped through the participation of citizens, the true owners of the cities. Urban redevelopment processes should be considered an opportunity for urban residents to have a say on, and to claim, today and the future. The most lucrative tool to evaluate and promote this opportunity is actually offered by the “public” qualities of public spheres. (Otaner and Keskin 2005:108)

Described as “public spaces”, social and technical infrastructure areas play a significant role in preparation of local physical plans. As per Law no 3194, Construction Regulation on Spatial Plans was enacted on 04.06.2014 after the regulation on Principles Regarding Plan Construction applicable as of 02.11.1985. According to this regulation, social infrastructure areas include medical, educational, religious, cultural and administrative facilities as well as green spaces such as parks and playgrounds, squares and recreation areas. Technical infrastructure covers transmission lines of electricity, oil and natural gas, drinking water and utility water facilities, underground and surface purification plants, sewages, waste treatment plants, transformers as well as facilities built to provide energy, transportation and communication services and parking lots or parking garages. The impact of globalization on cities has also affected this regulation which stipulated that social and technical infrastructure areas can be built by private sector as well. Therefore, we need to reevaluate the public “aspect” of public “spaces”.

An approach toward urban planning and design that urges “public sphere” may seem quixotic amid free market conditions led by globalization, planning practices way beyond a holistic approach and urban redevelopment leading segregation. However, the “public sphere” paradigm and a planning and design practice grounded on public spheres which pursue “public interests” will maintain its significance in the future. (Bilsel 2009:7).

URBAN TRANSFORMATION AND PUBLIC SPACE IN TURKEY

Having initiated in the Republican era, urbanization movements intensified in the 50’s upon mass migration rendering the current urban infrastructure ineffective to satisfy

the emerging needs, which is a primary issue among the urbanization-related problems in Turkey. Consecutive emergence of squatter settlements in urban peripheral areas also coincides with the 50's. (Kütük İnce, 2006:49). Again in the same period, public property, which in no way belonged to the "private", was allocated to the new settlers via non-market ways in order to support the market and ensure re-flourishing of labor force. Such squatter settlements are identified to have been among the first areas where the need for urban transformation arose in Turkey. Used as an instrument for market mechanisms, public space was problematically subjected to squatting, instead of being by re-arranged with the purposes of public service provision. Public spaces are well beyond meeting public needs due to minimum production of public spaces such as educational and medical facilities, recreational parks and public service buildings, which are all among the requirements of modernization, due to limited resources until the 80's (Bilgin, 2008:4).

Under the particular effect of neoliberal policies, amnesty laws enacted in the 80's for resolution of problems about squatter houses have legalized, and encouraged, squatter settlements developed in the absence of a plan and infrastructure. In the following periods, structures that were erected in Turkey, especially in Istanbul, upon such amnesty laws have shaped the current pattern of urban redevelopment (Dinçer, 2011:44). Moreover, public property and public spheres have seen a newly-emerged wave of privatization, in the backdrop of neoliberal policies, at a domestic and global level. Leading to a series of problems, privatizations of public spaces were made possible through public-private partnerships, build-operate-transfer models, selling or long-term rental of public lands to the private sector, which all resulted in significant changes in the map of urban property, and transformed the urban environment within itself. (Bilgin, 2008:6).

In the 90's, central and local administrations pursued improper urbanization policies and remained incapable of developing urban lands and dwellings. No mechanisms were established to monitor urban structures' compliance with development plans as a result of which unlawful settlements that were horizontally one-floor took on the shape of unlawful settlements vertically multi-floor, increasing the need for urban transformation (Köktürk, Köktürk, 2007:6). However, despite unfavorable political and economic conditions that pervaded the 90's and stagnated urban transformation attempts, the grave



Marmara Earthquake which hit in 1999 brought about the necessity to re-evaluate urban transformation attempts.

The urban transformation process that launched in the shape of recovering squatter settlements in Turkey proceeded with further content which covers equipping historic structures with new functions, reinforcing structures with expired lifecycles or structures in earthquake-prone regions, and re-constructing. These attempts were mostly carried out as urban transformation practices at the structure scale. Publicly-initiated urban transformation practices, which went beyond the structure scale onto spatial scale, only started as of 2004, upon the expansion of the relevant legislation. Yet, what spatial-scale and structure-scale attempts share in common is their preparation that only covers segmental physical arrangements with a lack of proper planning and consideration of social and economic aspects.

Led by free market conditions and globalization, the recent pressure of national and international capital is more prevalent and affects cities in Turkey. Re-initiated today, privatization attempts, constructions of multi-use complexes, attacks by the housing sectors and culture industry, as well as projects such as Marmaray and Yenikapı have been shaping Istanbul. Transformation projects prepared under such pressure have led to unnecessary urban sprawl, devastating historic, cultural and natural heritage, and creation of urban public spaces which do not in essence have the characteristics of the “local”, resulting in inefficient use and waste of public resources that contradict the principle of social and environmental sustainability and that escalate social inequality, exclusion and polarization (Akar, 2006: 37). Additionally, during urban transformation practices, public-private partnerships are observed to have focused on urban centers where urban redevelopment is more attractive and high income is sought for, which is criticized for turning urban transformation projects into an income-sharing model (Köktürk, Köktürk, 2007:7). As the summary of Istanbul’s history of the last 25 years, non-completed projects are resumed to create parks, transport facilities and other social areas which in the past failed to meet the needs of the population, whereas cities and public spaces are transformed through projects on large housing, shopping and business centers led by the pressure of national and international capital (Bilgin, 2008:6). Accordingly, shopping malls which are among the significant areas of the changing urban life have become social areas for leisure activities, which is worth to be analyzed from the perspective of public spaces’ role in planning (Demircioğlu, 2010:79).

LAW NO. 6306 ON TRANSFORMATION OF AREAS UNDER DISASTER RISK (URBAN TRANSFORMATION LAW)

The Turkish legislation for publicly-initiated spatial, rather than structure-scale, urban transformation was introduced and gradually enhanced as of 2004. The first step for the legislation was the project-based Law no. 5104 on North Ankara Entrance Urban Renewal Project which stipulated a mere physical renewal. This was followed by a critical instrument for urban transformation practices, the Law no. 5366 on Usage of Timeworn Historical and Cultural Real Property with Restoration and Protection relating to regions announced to be natural protected areas in 2005 and renewals of such areas in those regions, after which Article 73 of the Municipal Law dated 2005 and numbered 5393, entered into force. This Law set forth the roles and responsibilities of municipalities regarding urban transformation, and considered municipalities as the local tenet for urban transformation. In 2010, the Law no. 5998 on Amending Article 73 of the Municipal Law 2010 was enacted. Lastly, in 2012 the Law No. 6306 on Transformation of Areas under Disaster Risk from Perspective of Public Spaces was entered into force for urban transformation as a legal instrument to be executed in all places under the risk of disaster across our country.

The aforementioned law aims to set forth principles and procedures regarding improvement, evacuation and renewal of areas under disaster risk and of lands and plots with structures under risk. Article 2 of the Law defines risky areas and risky structures, the deriving point of the law, according to which “risk areas” could engender loss of lives and property, due to surface structures or settlements, as identified by the Ministry or Administration with the opinions of Disaster and Emergency Management Office, and as agreed on by the Council of Ministers upon the proposal of the Ministry. Structures under risk refer to buildings inside or outside the aforementioned areas, identified to have an expired economic lifecycle or to pose a risk of collapse or being severely destroyed based on scientific and technical data. Reserve development area refers to areas Ministry determines as new settlements to be deployed in implementations to be carried out as per this law.

The Law authorizes the Ministry of Environment and Urban Planning for identification of “areas and structures under risk” and “improvement”, “evacuation” and “renewal” of all the country-wide structures in areas under risk. However, it is also ruled that the authority may be granted to local administrations

(municipalities and special provincial administrations) or TOKİ, housing development administration of Turkey, if and when appointed by the relevant Ministry. Moreover, property owners may have their risky buildings identified by institutions and bodies licensed by the Ministry. Nevertheless, what poses a problem in this point is that institutions and bodies of the Ministry, or the Ministry itself, are the sole players in identification of the structures under risk, the subject matter of the Law, and that there is a lack of concretely set-forth parameters to be used during identification. Similarly, while reserve areas are described in the Law, the method and criteria to identify a reserve development area are not outlined.

Moreover, it is decided that the immovable properties within risky areas and reserve development areas including Military Forbidden Zones and Safety Zones which are under the private property of Treasure are allocated to Ministry or transferred to TOKİ and Administration upon the demand of Ministry without charge. Other immovable properties under the property of public agencies are granted and allocated to the Ministry upon Ministry's proposal by asking opinions of public agencies owning properties within the frame of the objectives of this law or can be transferred to Housing Development Administration of Turkey and Administration without any charges. This regulation provides information about the course of how these immovable properties under public property in risky and reserve areas are allocated, while no explanation is provided as to the their function. The decision for immovable properties within public property is left to the discretion of Ministry.

The Ministry is also authorized by the Law to prepare, approve and monitor any plans and projects on the immovable properties with structures under risk, in addition to the power of drawing up and approving plans with "special standards". This means that the Development Law and technical and social infrastructure standards set forth by the Development Law, including special rules, may not be applied and complied with for areas with structures under risk and reserve development areas determined by the Ministry.

Finally, according to Article 9 of the Law no 6306, provisions of twelve different laws, including the Law no. 2863 on Conservation of Cultural and Natural Property, the Coastal Law no. 3621, the Law no. 5366 Usage of Timeworn Historical and Cultural Real Property with Restoration and Protection, the Bosphorus Law no. 2960, will be suspended if they prevent implementation of the Law no. 6306. In other words, in case of a

conflict between the provisions of two equally effective laws, one law will overrule the other within the framework of the hierarchy of norms. However, this article was revoked with Constitutional Court's Decree No E.: 2012/87 and K:2014/41 dated 27/2/2014 .

In conclusion, an in-depth look into the legal instruments governing urban transformation demonstrates that urban problems facing earthquake-prone areas are not comprehensively addressed, and that urban transformation projects fail to achieve long-term economic, social and physical improvement of such areas. Moreover, authorities are centralized; local governments are inactivated, while property right which is a constitutional right is violated with these regulations stipulated along with law. Also, the law does not state whether the public property areas will remain public property after transfers, which leads to claims that public property areas meeting basic needs of society with a social mission are disregarded and urban transformation is projected based only on the monopoly of houses. Moreover, observations clearly show that the law focuses on demolishing risky structures in risky and reserve areas, while post-demolishment issues remain uncertain. No explanation is available especially when it comes to the features of buildings to replace risky ones, planning decisions and the harmony with structured, historical and natural environment. No architectural decisions on the area are taken in the master plans prepared pursuant to the law, while all these issues are mentioned in "Urban Design Project" in plan notes. Construction Regulation on Spatial Plans defines the concept of Urban design project as a project with a proper scale that contains mass and settlement arrangements or outdoor arrangements, builds connections for vehicle transport, parking lots, service and pedestrian circulation, outlines the relation of structures, streets, texture and outdoor green areas as well as urban furniture, handles infrastructural elements with an integral approach, expresses features of meaning and identity, includes principles and instruments of design by taking into account the natural, historical, cultural, social and economic features and land structure.

Istanbul Infrastructure and Urban Transformation Office, operating under the roof of the Ministry of Environment and Urban Planning, prepared a map titled 'Distribution of Risky Reserve Development Areas in the Province of Istanbul' (Figure 1) which maps out the risky areas and reserve development areas. According to the map, the Ministry declared risky areas of a total 1106,25 ha in different spots of the city. Majority of the

risky areas are located on the European side, while Gaziosmanpaşa and Bağcılar should be highlighted regarding the size of their risky areas with potential urban transformation projects. Furthermore, the risky area in Tozkoparan Neighborhood of Güngören (14th Office of Council of State, Decree No: 2014/4480) and the risky area in Çamlıtepe (Derbent) Neighborhood of Sarıyer (13th Office of State of Council, Decree No: 2013/4163) are revoked by the State of Council as how structures pose a risk of life and property loss cannot be determined clearly, as a result of the lawsuits on areas declared risky that are brought by associations formed by inhabitants of the area. Lawsuits brought against the declaration of risky areas of Bağlarbaşı, Yenidoğan, Sarıgöl in Gaziosmanpaşa and Cumhuriyet Neighborhood in Sultangazi are stillpremdm proceeded.

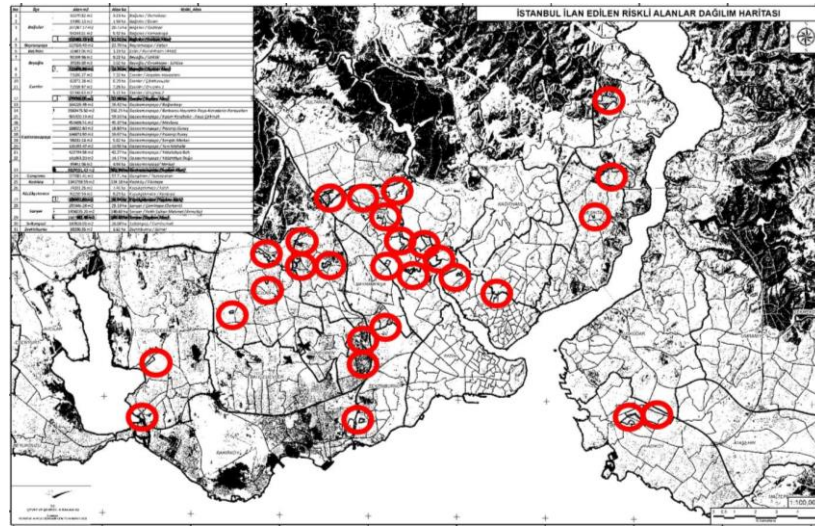


Figure 1.

The most controversial area declared as a risky area in the map is Etiler (Beşiktaş) Vocational High School for the Police Force. The process began when the school in the (32,000 m²) area was demolished and public property was transferred. Then the Ministry of Environment and Urban Planning approved the master plan modifications pertaining to building residential areas, areas for shopping malls and business centers on 26.12.2012. However, trade associations brought lawsuits against the master plan rendering a public area available to structuring with the function of housing and trade. Following that, the area was declared risky on Jul 24, 2013 as per the Law No. 6306. Debates arise upon the master plan modification in the area and declaration of area as risky following the lawsuits brought later on and regard the exercise of authorities for public property granted by Law No. 6306 to the Ministry. This is exactly what makes the aforementioned law controversial. According to

the law, any public area may be declared risky or an unsettled public area may be stripped off its public nature by being declared as a reserve development area. (The law authorizes solely the Ministry in all the procedures related therewith.) Therefore, all the public spaces are under threat of this Law: the true risk for such areas is the Law no. 6306 itself.

At this point, it becomes obvious that all public areas intended to be used for a different function can be declared as “risky area”. Although public housing regulations and case laws contain provisions protecting public areas, some social responses like those experienced in Gezi Protests during May and June 2013 might arise to protect public areas.

GEZI PARK TRANSFORMATION AND PROTESTS

The greatest component of the Taksim Square redevelopment project involves taking the traffic underground and supposedly making the square pedestrian-friendly (by building giant ramps at several boulevards around the square and directing the traffic to subterranean tunnels underneath the square). However, the more controversial and arguably absurd part of the plan is the destruction of Gezi Park. Prime Minister Erdoğan intended to see the Park demolished so that the “Taksim Topçu Kışlası” (Taksim Artillery Barracks) and its courtyard could be reconstructed. The barracks, built between 1803 and 1806, was the most prominent structure in the Taksim area upon its completion. In 1920s, however, the barracks became defunct and was evacuated. The courtyard was turned home to the first football stadium in Istanbul that host important soccer games.

During the reign of İsmet İnönü, the second president of the Republic, the city, and Taksim square in particular, grew under modernist principles. An international contest was held for the land-use of the city, and the plans by Henri Proust, one of the testers, which involved re-organization of Taksim Square in a modernist style, were put into action around 1939. One aspect of Proust’s plans was to expand the square, which meant demolishing the already partially derelict Artillery Barracks. The 26000 square meter land it occupied was later transformed into today’s Taksim Gezi Park.

For a more comprehensive and proper evaluation, let us first provide a brief summary of what was experienced throughout the Gezi Protests, a potential turning point in the future of Turkey, which reverberated across the country:

16 September 2011: Istanbul Metropolitan Municipality decided to rebuild the Artillery Barracks. Taksim Pedestrianization Project was approved.

17 January 2013: The 2nd Cultural Heritage Conservation District Board of Istanbul announced their decision to not approve the Artillery Barracks Project.

28 February 2013: The High Council of Cultural Heritage Conservation approved the Artillery Barracks Project.

27 May 2013: The construction crew equipped with heavy machinery initiated demolition of Gezi Park. 5 trees were removed. Sensitive environmentalists rushed into Gezi Park to protest the destruction.

30 May 2013: A lot of tents were set-up against which a down-raid was conducted. Heavy machinery went into the park again. A large number of people gathered in Gezi Park.

31 May 2013: The second dawn-raid was conducted, as a result of which protests in Istanbul spread across Ankara, İzmir and Eskisehir with people taking to the streets and chanting the famous slogan: 'Taksim is everywhere and everywhere is resistance'. The project was on the way for annulment by the court ruling. The police started using plastic bullets against demonstrators. Rulers of Istanbul made press statements.

02 June 2013: Thousands of people on the streets stayed awake till morning. PM called demonstrators in Gezi Park a bunch of "çapulcus" (looters). The police crackdown became harsher. The news of the first death...

04 June 2013: Stands were set up; yoga classes were organized, and books were read in Gezi. Ministers and top officials made statements. KESK organized a half-day work-stoppage. CNN Turk was heavily criticized for broadcasting a documentary on penguins as a response to Gezi protests. The news of the second death....

06 June 2013: The People's Assembly gathered the people in Taksim. PM made a statement in Tunisia: 'We will not give up reorganizing Taksim Square ... (Protesters) being manipulated by external forces ... (These are) marginal groups....' Turkey shaking with country-wide protestsThe news of the third death

14 June 2013: PM met representatives of Taksim Solidarity Movement. The Ministry launched an investigation

against doctors who provided medical aid to protesters. Friday's prayers were performed in Gezi. The news of the fourth death...

16 June 2013: PM continued his meetings and said: "I gave the instructions for evacuation of Gezi Park". The police closed the park.

08 July 2013: After 23 days, Gezi Park was re-opened to the public. Public space was recovered.

The Gezi Park Process poses an example in which the power centralizing uses legal bases on behalf of urban income and deskills spaces by making use of the transformation law. On the other hand, chain of incidents broke out, questioning public point of view on public spaces and social awareness on public spaces is raised. Until recently, almost only professionals had the knowledge of the existence and definition of public spaces, how they are acquired or lose their publicity nature. Currently, however, it has become a matter of fact about which public has an opinion as well. In this respect, Gezi protests have become a triggering power which enhances society's relation with where they live and which makes it possible for them to question implementations, while awaking society.

A survey study was conducted with a group consisting of 40 people with different professions, age groups and political opinion to understand the qualification, property and the protection of public spaces as well as whether the perception they create changes. The group whose ages differ between 20 and 40 is asked questions about the definition of public spaces, if they use the park before the protests and have memories about the park, if they are involved in Gezi Park protests physically and why they are involved and if their opinion about the place changed after the protests have ended.

According to the results of the survey,

Considering the age groups of those taking the survey, 47 % are between the age of 20 and 25, 31 % are between 25 and 30, and 22 percent are between 30 and 40.

While participants define public spaces differently, 34 % define them as areas open to the use of everyone. Other comments suggest them as places belonging to society rather than individual or places belonging to public under the control of government.

78 % of those taking the survey state that they visited Gezi Park before. Some part of those visited Gezi Park

before used the park only due to its location as a transitional area, while some others used it to meet, chat and have fun with friends.

The park has a general or special meaning for 47 percent of those taking the survey. However, the majority states that it is significant as it is the only open area within the center of city like Taksim, which is full of concrete structures. Gezi Park has a nostalgic meaning for those using it for meeting, recreation and event purposes.

Among the participants, those having a memory about the park and those without memories are separated as 50 % and 50 %.

40 % of taking the survey state that they are involved in the protests physically. 60 % say that emotional support was provided through the posts on social media. Those involved in the protests justify their involvement with the concern of protecting green areas and withstand against the government's implementations by defending their rights.

Those not involved in the protests present a wide range of reasons. Most of the answers given have to do with avoiding life-threatening situations and the fact that protests are sidetracked, considering why they began.

63 % taking the survey state that the meaning of park before and after the protests has changed. Many believe that before the protests, it was an ordinary park for recreational purposes in the city center, while it has now become symbol of freedom, cooperation and death.

When evaluated in terms of the process, participants state that they are glad that the wrong attitude adopted by the government for planning implementations was protested and they expected a change in the beginning. In the midst of the process, however, they were disturbed by the government's excessive force, separatist attitude against protests and loss of lives. In conclusion, people felt offended as the protests could not achieve the exact objective.

Participants that have past memories or attach a meaning on the park used sharp expressions (ghostly cemetery, symbol of cooperation, symbol of freedom, death, etc.) to state that their point of view about the park changed following the protests. On the other hand, there is no relation between their physical memories and physical involvement in the protests. In other words, those who do not have any memories about the

park or who do not attach any meaning have been also involved in the process or expressed their reaction both physically or emotionally or through social media.

Keleş points that public space as a term has the following aspects: a) public space is not a geographic or topographic concept. It is a concept of which discursive and actual functions predominate. b) “Public space” is not identified with political space. It focuses more on “community”. c) Lastly, “public space” is the process of determining the borders of living together, and the course of moral principles it is based on and lifestyle (Keleş 2012:10). The meaning participants attach on the public space matches up with the aforementioned aspects of public space. According to German sociologist Jürgen Habermas, on the other hand, citizens can be a part of the public space only when they can discuss issues and secure their freedom to organize, gather, declare and publish their opinions on the problems related to general interest (i.e. public interest, social interest) without restrictions. In this respect, it would not be true to consider government as a part of the public space, yet the environment that allows citizens to discuss public issues builds on the political power and contributes to its rationalization (Keleş 2012:10). The survey studies reveal that Gezi Park Protests broke out with the goal of becoming a part of the city and public space.

Gezi protests played a significant role in keeping the park as a park, in other words, helping it remain a public space. However, what in reality 'saved' the site was the verdict of the Administrative Court that annulled the project, which was grounded on the Law 2863 on Conservation of Cultural and Natural Property. Nevertheless, the critical point lies here. Law No. 6306 is entrusted with authorities that might prevail other important laws on determining a site as risky or reserve area.

Although Gezi Protests made it possible to save the park singularly, the course of remaining public spaces seems to be unclear. At this point, the existing laws and regulations should be duly reviewed and revised with an approach taking into account the property rights with a more realistic, participative attitude and the balance between protection and use. Another significant conclusion acquired from the surveys and interviews carried out is that the point of view as to the process has changed with the perception of public space as an area of society and government. This is because the ideology based on the idea of “public space belongs to government” accepts urban places as a property within the disposal of government. In this case, the government is put into a position where it can plan its own

property in any way that will serve for its purpose without concerns of accountability. However, the principle of “public space belongs to society” supports the idea that the public can have an effect on the urban place it resides in through various methods and have a voice in the planning implementations. Nevertheless, the recent legal reforms within the urban planning scale and ever-centralizing administrative structures lead to a planning approach causing income-oriented planning that draws society away from the participative approach by privatizing the urban places unnecessarily.

CONCLUSION AND OBSERVATIONS

Cities in Turkey, especially Istanbul, are led by the national and international capital in the backdrop of free market conditions shaped by globalization. An urban planning approach that defends the interests of public spaces may seem quixotic amid disintegrated, segmental urban redevelopment practices conducted under the aforementioned pressures. However, social segregation and disintegration witnessed in cities can be still replaced with public-oriented planning and design, which is a significant paradigm that prioritizes public spheres and public interests.

Istanbul has been recently shaped by a new wave of privatizations, constructions of multi-use complexes, and the attacks of the housing market and culture industry. Non-completed projects are resumed to create parks, transport facilities and other social areas which in the past failed to meet the needs of the population, whereas cities and public spaces are transformed through projects on large housing, shopping and business centers led by the pressure of national and international capital. As a result, cities oppressed by capital pressure renew their decaying faces to compete and are led to transformation to contribute to national capital.

An in-depth look into the legal instruments governing urban transformation demonstrates that urban problems facing earthquake-prone areas are not comprehensively addressed, and that urban transformation projects fail to achieve long-term economic, social and physical improvement of such areas. The Law No. 6306 on Transformation, which was entered into force in 2012, brought new dimensions to the implementation procedures to be carried out in transformation areas, yet remain as an extension of the insufficient implementations conducted in the past. As it can be observed for the time being, the law aims to transform structure stock found to be resistless against disaster risk; however, it remains incapable in terms of defining the works to be carried out with a focus on disaster risk, while failing

to deal with how to reduce the risk transparently. Within this scope, the Law no. 6306 appointed the Ministry of Environment and Urban Planning as the sole authority to identify risky areas, risky structures and reserve development areas, while equipping the Ministry with limitless power. Furthermore, the aforementioned law is now prioritized over other special-purpose plans and laws when it comes to implementation.

The punch line of the aforementioned law is that any public space may be declared risky or an unsettled public space may be stripped off its public nature by being declared as a reserve development area. The law entrusts the Ministry with the entire authority at this point, while putting public spaces under a serious threat. In this respect, Gezi Protests that broke out in May 2013 demonstrate how it leads to chaotic and serious social incidents when transformation implementations that lack participative processes are realized and, more importantly, when public spaces are subject to transformation based on misled laws, which is also revealed by the surveys carried out within the scope of the study.

The study reflects perspectives of different groups in the society as to public spaces, while demonstrating that individuals handle the public space through two basic elements, which are property and intended use. On one hand, public space is expressed as an area that belongs to government and is controlled by government. On the other hand, it is described as an area that belongs to society rather than individual, so it is additionally defined as a common area where public / society can use and socialize freely. However, answers show that the concept of public can represent both the government and society at times, which leads to a conflict. Nevertheless, those taking the survey agree on the fact that it is a violation on public spaces and social rights to transform Gezi Park from a public space into an area for private use.

Considered thoroughly, it is observed that institutions are equipped with superior authorities as a part of the ongoing tradition of centralization and planning implementations and laws have a prevailing power between each other. Within the process, even fundamental rights including property right has become vulnerable. Within this scope, it becomes obvious that the Law No. 6306 has a negative approach both against individual and public property rights. It is unable to conceal that it fails to protect property rights comprehensively and include the participation principle within its nature. Gezi Park has become a symbol for other spaces that are under the threat of losing their public nature within the frame of law, while becoming

an indicator of rights, freedom and public's struggle for spaces allocated for its own use. The conclusion to be made in terms of the future of planning implementations and legal regulations is that "assets that do not belong to anyone yet everyone has a share on" should become subject to new ways of possession if and only decisions are taken with participative processes. Within this process, the approach to protect more public spaces within law will make it possible to enhance and bolster the understanding of possessing public spaces, which is developed in Gezi Park Protests, against new interventions.

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RESUME

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