

Forest and Cadastre in Turkey and Sustainable Development

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Key words: Cadastre, legislation, forest, sustainable development, Turkey, 2/B areas.

SUMMARY

In Turkey the forest is one of the most important natural resources. It both affects the rural development processes and is affected from these. Nevertheless “deforestation” is the main forest problem in Turkey. Sustainable forest management is required for the forests meet the social, economic, ecological, cultural and spiritual needs of the next generation. “To protect and to secure the forest areas” is the initial studies to be done for sustainable forest management. To prevent deforestation is possible with the cadastral studies. Forests and cadastre are connected to each other very closely. It is seen in the laws and in social life very clearly. Because of these entire reasons main legal infrastructure in Turkey is examined and interpreted according to the current conditions.

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1. INTRODUCTION

This paper is a part of a long term study on “Cadastre in Rural Areas in Turkey and Cadastre”. One of the most valuable and the most important wealth sources of the countries is land. Land is always the strongest material and spiritual relationship which ties the people to their native countries’ land with the ownership fact. Therefore the relationship between land and the people is closely connected with social, political and economic problems of the countries’. Cadastre has been the main tool to determine this relationship between land and people. To use land registry and cadastre information as a basic support on the way of “land management” is the main subject. It is need to examine the cadastre and ownership on rural areas from the point of the sustainable development view because the interest in agricultural, forest and meadow area that are known as rural area has been rising with the increasing population, the developing technology, the expanding urbanization, industry and commercial investments.

In Turkey forest is one of the most important natural resources. Therefore it is one of the basic subjects for sustainable development in rural areas. It both affects the rural development processes and is affected from these. At each term it is tried to save forests and take measures for risks on running out of them with the legal arrangements and applications. In this study the legal arrangements in the Republican Period of Turkey, especially legal infrastructure of forest after 1960 is reviewed. The law numbered as 3116 is the first forest law and is published in The Official Gazette dated as 18.02.1937. Afterwards it has been repealed by Forest Law numbered as 6831 on 08.09.1956. In later years some articles of this law has changed many times.

The policies implemented between years 1950-1960 have increased the forest destruction. Taking into account this destruction a frame is drawn on forest regime with Article 131 of the 1961 Constitution. Until 1970, these provisions are effective to protect the forests. However the law in 1973 numbered as 1744 allows some places which lost the forest nature before 15.10.1961 (that is date of The 1961 Constitution entered into force) to take outside the forest boundaries. To take these lands outside the forest boundaries is the beginning of works to remove some places outside of the forest borders in the concept of forests’ sustainability. In order to remove a place outside the forest border, the borders must be determined. The way to determine the borders in Turkey is the cadastre.

Three legal documents are basic for this paper: One of them is 1982 Constitution, other one is The Forest Law numbered as 6831 and finally The Cadastre Law numbered as 3402.

2. DETERMINATION OF FOREST AND FOREST VILLAGER WITH LAWS

The Forest Law numbered as 6831 entered into force in 1956, nevertheless it has many changes on its articles in different years. It is the main forest_related law. Therefore it is entirely concerned with the forests. The chapters and sections in the law can be listed as

below:

- Chapter 1: The description, distribution and administration of the forests
- Chapter 2: Section1: State Forests Forest Cadastre, Section2: The development and the transportation of forest villagers, Section3: Preservation of the forests, Section4: Works of pasture and grassland, Section5: Preservation forests, Section6: National Parks, Section7: Works of production and selling
- Chapter 3: The forests belong to public establishments having legal personality. Section1:Business and development, Section2: Administration and preservation
- Chapter 4: Private Forests. Section1: Restriction, map, business and development, Section2: Administration and preservation.
- Chapter 5: Common provisions. Section1: Reforestation and development works, Section2: Extinguishing forest fires, Section3: The rights of the forest officers to carry and use the weapons, Section4: Following the acts which constitute the illegality.
- Chapter 6: Individual provisions
- Chapter 7: Temporary provisions

In this law the trees and shrub communities, which naturally grows and are grown with labor, with their lands are considered as forest, however except the items below:

- reed,
- thorny lands,
- parks,
- city graveyards and the lands covered with the trees and young trees on old graveyards within the borders of towns and villages,
- the places that have the trees and small trees on owned_land and don't have them on near forests,
- the lands that are covered with the trees scattered or sometimes located in the clusters and rows, used as an agricultural land, have deed within the forest borders or have the individual ownership with all kind of saving documents outside the boundaries of the forest.
- the lands that have the maximum 3 ha owned_area, are outside the borders of forest, and covered with all kind of trees and young trees.
- vaccinated and unvaccinated olives on owned_lands
- the lands that are covered with heath and scrub, and have not the characteristic of forest...etc.

The forests are classified in two groups: 1- in terms of ownership and administration, 2- in terms of qualifications and characteristics. The first group is on the focus of this study and is categorized as government forests, private forests and forests belonging to public establishments having a legal personality.

1982 Constitution devotes a section to the issue of forests and inhabitants of forest villages. In accordance with article 169 all forests belong to the State surveillance. State legislates to protect the forests and the extension of their areas and takes measures. New forests are grown on site burning of forests; these areas cannot be used as any other kind of agriculture and livestock area. According to the article 169 the ownership of the forest cannot be transferred; the forests cannot be owned by time limit and subjected to the right of access except public interest. Acts and actions which might damage forests shall not be allowed. The

political propaganda which might lead to the destruction of the forests cannot be. Forest crimes cannot be removed solely for general and special amnesty. The crimes in the scope of destroying forests cannot be general and special amnesty.

Forest villagers are the inhabitants who live in villages or scattered settlements within or adjacent to the state forests. In the scope of the development of the forest villagers if it is approved to develop them on their settlements the fund mentioned in the law is provided. If it is not approved to develop them on their settlements, or the villagers who have to be removed from their settlements because of the soil and water regime on that land are firstly transported to the agricultural areas and the places outside of the forest borders partially or completely (6831, article 2/A). If the transportation of the forest villagers is not possible to the other places, the lands owned by villagers resettled are reforested as State Forest immediately (6831, Article 13). Also 1982 Constitution has Article 170 to protect the forest villagers. It emphasizes the measures that provides cooperation between State and the public to develop the villagers within or adjacent to forest villages, to protect, to follow and to manage the forests. It stresses to evaluate the lands which have lost the forest characteristic before 31.12.1981, to take these outside the forest, to resettle the villagers within the forest villages to these new settlements. The article finishes the paragraph that these new settlements are revived by the State and the allocation for the benefit of these people is regulated by law. The State takes facilitating measures to provide farming equipments and other inputs for the people. The lands belonging to the public removed from the forests are reforested as a State Forest immediately.

3. FORESTS, CADASTRE AND 2/B AREAS IN FORESTS

Though the 1982 Constitution and the Forest Law numbered as 6831 mention maintaining the forest and protecting the forest villagers they list the criteria to reduce the size of forest fields. The areas to be issued beyond the boundaries of forest areas are named as “2/B Areas” because they are placed in “b” paragraph of the second article of The Forest Law. While the initial aim is to protect and develop the forest land the second article of The Forest Law makes mention of “extricating some lands from forest land” with 2/B Areas. According to The Constitution and The Forest Law, 2/B Areas are:

- a) the lands which lost the forest characteristic before 31.12.1981 in the concept of science
- b) agricultural areas such as field, vineyard, garden, orchard, olive grove, hazelnut area, peanut area in the forest boundary, or
- c) the lands in the forest boundary that are useful for livestock such as pasture, sheltered place, mountain pasture,
- d) settlement areas in the forest boundary which have the city, small town and village structures

If these areas belong to State they are registered in the name of Treasury, if these belong to institution/establishment/organization they are registered in the name of this institution/establishment/organization, if they are private forests they are registered on behalf of the owners.

In order to take a land outside of the forest area the forest cadastral commission should determine the forest boundaries primarily. It means that firstly the boundaries of the forest in that place must be defined. It is only possible to be done the general cadastre and the forest cadastre at the same time. The boundary of the village is the cadastral working area in rural

areas. In case there is a forest area in the cadastral working area General Directorate of Land Registry and Cadastre reports to General Directorate of Forest two months ago that the cadastral studies will start. The studies are realized by forest cadastre team in accordance with the provisions of Forest Law and Cadastre Law. The boundaries are drawn on sheets and maps by cadastre teams. The job of identifying the forest boundary does not belong to the cadastre team. Its job is to determine the boundary of working area. As a result of this the work to take out of the forest land is not the job of cadastre (surveying) team.

In terms of thought and practice the forest areas can be analyzed in three groups in the view of cadastre: the lands that have the forest cadastre, the lands that don't have the forest cadastre and the lands that are taken outside of the forest boundary. The lands that have the forest cadastre are the areas that have the forest cadastre. They considered being forest in the concept of maps and records. The lands that don't have the forest cadastre have uncertain boundaries. It is not known if a land is within the forest area. For the lands that are taken outside of the forest boundary the forest cadastre is completed and these lands have lost the forest characteristic.

The first section of the second chapter with the articles 7, 8, 9, 10, 11 and 12 contains the provisions on the forest cadastre. It does not include provisions contrary to The Cadastre Law numbered as 3402. On the areas where the forest cadastre does not start, the forest boundary that is determined according to the provisions of The Cadastre Law numbered as 3402 becomes the forest boundary determined by forest cadastral commission. This detail is set forth in the fourth article of Cadastre Law. During these studies a forest engineer and an agricultural engineer have to participate in the commission in 7 days. If the forest cadastre is finalized the boundaries is accepted exactly. Also Annex Article4 titled "The cadastre and the registration of the land that are taken outside of the forest boundary" is attached to The Cadastre Law with changes in 2009.

4. RESULTS

The forests are natural wealth resources in Turkey as in whole world. According to the Article 168 in the 1982 Constitution the "forests" is in the category of natural wealth and natural resources, and is in the possession of the government. Also the Constitution has a special part for forest and its inhabitants to protect and develop both forests and inhabitants. Nevertheless "deforestation" is the main forest problem in Turkey. Sustainable forest management is required for the forests meet the social, economic, ecological, cultural and spiritual needs of the next generation. "To protect and to secure the forest areas" is the initial studies to be done for sustainable forest management.

According to the Constitution and Forest Law, the lands that lost the forest characteristic scientifically are taken to the outside of the forest area. For instance agricultural areas such as field, vineyard, garden, orchard, olive grove, hazelnut area, peanut area, or the lands that are useful for livestock such as pasture, sheltered place, mountain pasture, or settlement areas which have the city, small town and village structures. It means that these lands cannot be recovered and improved as a forest so these places are not forests yet. Actually they are not "the lands that lost the forest characteristic", they are "the lands to be lost the forest characteristic by people". The people use the forest areas as settlements and agricultural facilities. In time "to accept this usage and to take these lands outside of the forest boundary" has turned into legal arrangement that prepares the environment for deforestation

by the politicians. As a result of this, 2/B applications become a method which transfers these lands to people who open the forest and disforest. It means that the sales of these lands are talked about. To bring forest cover to the areas as in Figure 1 and Figure 2 costs much more than to bring forest cover to the areas as in Figure 3 and Figure 4 (Alkan et al. 2009). The government believe that it is better to sale the lands as in Figure 1 and Figure 2 and to transfer the value to the funds. However the lands in Figure 3 and Figure 4 can be converted to the forest field at a reasonable cost and sustainability of the forests can be achieved.

One of the foundations of success in sustainable forestry is “forest cadastre”. As it is indicated in the 1982 Constitution the determination of the forest boundaries and registration to the title deed are mandatory. This is the solution to protect the forests and for processes of the lands to be taken outside of the forest boundaries. If the causes for the looting of the forests are removed in Turkey sustainable forestry can be talked about.



Figure 1: Sultanbeyli-ISTANBUL, 2003.



Figure 2: Gemlik-BURSA, 2003.

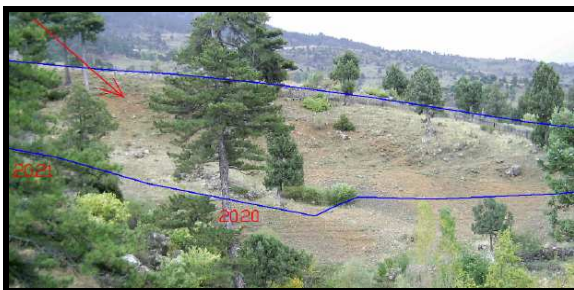


Figure 3: An example for abandoned area after agricultural studies of several years.



Figure 4: An example for the forest characteristic.

5. DISCUSSION

The relations of land, people, production, settlement, sharing is an indicator that defines the social, economic and political dimensions of a society. The people have had to determine the relations with the land in the proportion of necessity and possibility according to their conditions. The cadastre has been used as a method to designate the relationship between the land and the people; it means that cadastre is used as a tool. Also cadastre is one of the

inevitable tools for sustainable development through the way of land management concept.

While the forests are so important in life and there are so many gaps through the deforestation in Turkey the solutions should be thought and found. One of the solutions to prevent deforestation is possible with the cadastral studies. When making forest cadastre, the forest lands that belong to the State and the people are determined, the rapes to the forest lands can be prevented easily, the forest cases decrease and the solutions can be easily, the lands that are not necessary to be in forest area are removed outside of the forest boundary and the forest management is easy on the lands where the characteristics of the forest are determined. It is sure that forests and cadastre are connected to each other very closely. It is seen in the laws and in social life very clearly.

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BIOGRAPHICAL NOTES

I graduated Ankara Anatolia Land Registry and Cadastre High School. I had bachelor's degree from Department of Geodesy and Photogrammetry in Istanbul Technical University, master science degree from Department of Geodetic and Geographic Information Technologies in Ankara Middle East Technical University and PhD. degree from Social Sciences Institution in Ankara University.

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