

# An Assessment of Institutional and Legal Factors in Relation to Failure of Urban Regeneration

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Assoc. Prof. Tuna Kuyucu

Boğaziçi University  
Department of Sociology

Tuna Kuyucu received his PhD in sociology from the University of Washington in 2009. His research areas include economic sociology, urban sociology and the sociology of law. Dr. Kuyucu's has conducted extensive research on the political economy of urban regeneration and low-income housing in various Turkish cities, with a particular focus on the case of Istanbul. His work has been published in leading academic journals of the field of urban studies including Urban Studies, International Journal of Urban and Regional Research, Urban Affairs Review and Law&Society Review. Dr. Kuyucu spent 6 months at the University of Edinburgh as a visiting researcher in 2016. Currently Dr. Kuyucu works on the legal and institutional factors behind the failure of large-scale urban renewal programs in Istanbul. Dr. Kuyucu has received several awards for his work including a prestigious fellowship from the Urban Studies Foundation, a competitive award from award from Kadir Has University as well as two teaching awards from Boğaziçi University.

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Begüm İçelliler

Large scale urban renewal projects, or 'urban regeneration' projects as commonly known in Turkey, are one of the most important political tools for the transition of cities from industry into service-heavy economic structures. Since 1970s regeneration projects have triggered substantial changes in urban economic geographies and caused extensive demographic shifts in the idle industrial, coastal and low socioeconomic residential areas of cities in late-capitalist countries. Yet, in Turkey they have started being implemented much later, with the first comprehensive regeneration policy devised in 2005 when the Justice and Development Party (AKP) came to power.

Until 2000's there existed significant financial and legal barriers to urban renewal. Struggling with budget deficits and high interest rates throughout the 90s, the state was not financially capable of urban renewal, which requires significant resources. On the other hand, Turkey's local governance policies and financing did not allow municipalities to implement such projects by themselves. Finally, private sector actors (real estate investment trusts, major contractors, finance companies) lacked either any interest or the resources for urban renewal projects in the pre-2002 period characterised by high interest rates and inflation.

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Once in power, AKP immediately started, through significant reforms, a new phase in urban governance, housing production and urban regeneration. The passing of two new laws (Municipal Law and Law No: 5366) in 2002 has formed the legal basis for the implementation of country-wide large scale renewal projects, while the restructuring of the Housing Development Administration (TOKİ) has made central government the main actor in urban regeneration practices and in the creation of housing for different socioeconomic groups.

With the creation of the Ministry of Environment and Urban Planning and the passing of the Law of Transformation of Areas under Disaster Risks (henceforth Disaster Law) in 2012, the role and power of central government in urban regeneration practices have increased, and important powers capable of overcoming potential barriers to projects have been transferred over to state branches. In addition, after the 2001 economic crisis and as a result of rapid growth in Turkey's economy, hundreds of new urban regeneration projects have kick-started and significant structural changes (e.g. increase in mortgages and real estate investment trusts) in Turkey's real estate economy have taken place.

Urban regeneration projects, claimed to be the answer to the renewal needs of Turkey's earthquake prone cities, projected to increase the life quality of those living in substandard housing and neighbourhoods with poor infrastructure, and assumed to trigger the much needed economic transformation of big cities were starting to be seen as a magic wand.

However, 15 years on since the passing of the first urban regeneration law, we see that almost none of the major urban regeneration projects envisaged for İstanbul have finished successfully, many have been put on hold before even starting, and those that have begun have stopped by court order. While more than 40 areas have been given regeneration status throughout İstanbul, to date only two large projects, Sulukule and Ayazma-Tepeüstü urban regeneration projects have been completed, with the former declared unlawful by the Administrative Court a couple years after the project had been completed.

This great failure in urban regeneration despite unconditional support from central government, the passing of new legislation, the creation of new institutions and favourable economic conditions needs explaining. Three fundamental reasons lie behind the failure in regeneration projects:

- i. Legal and administrative confusion and the consequent lack of institutional coordination
- ii. Incongruence between planning regulations and urban renewal practices
- iii. Effective social opposition and legal resistance

In the rest of this article, I will explain the ways in which the aforementioned reasons have made urban regeneration difficult, even impossible, using various failed cases from İstanbul as example. Consequently, in 2012 significant changes took place in the politics of urban regeneration, which ceased to comprise ward areas with a holistic a renewal outlook, and has rather been marked by a piecemeal, segmented and rapid regeneration approach. Moreover, local governments, who had had their decision-making powers heightened decisively in the previous period, have had to transfer almost all these powers to central government. These changes have aimed to boost the construction and real estate industries, and have partially succeeded in this respect. Yet, this urban regeneration process, characterised by a segmented approach that targets individual buildings, is far from finding solutions to the spatial, economic and social problems that cities are facing. It will not provide societal benefits beyond the immediate gains it will potentially provide contractors and the property-owning residents of the renewed buildings.

### Legal Confusion and Institutional Conflict

The main obstacle to the successful implementation of large-scale projects designed within the framework summarized above is the problematic legal grounds on which they stand (Kuyucu, 2014; Özden, 2010). Turkey's urban regeneration laws, added on to the existing housing, planning and preservation laws as an afterthought and without sufficient preparation, are creating significant confusion in the allocation of authority. Moreover, uncertainty around the beholder

of many project implementation responsibilities is creating conflict between institutions.

Put in other words, projects are revealing serious institutional coordination problems, which negatively affect them due to the complexity of existing laws and the absence of institutional mechanisms that enable coordinated activity.

In cases where local government at the project site and central government represent different political parties, the problem becomes acute. Conflicts that have arisen between different administrative institutions have often ended up in court, which has stopped project activities. It will be useful at this point to examine some cases to understand the situation better.

The neighbourhood of Derbent lies within the municipal boundaries of Sarıyer in İstanbul and is a slum that was built in the 1960s. To this date Derbent does not have a housing plan. In the last 20 years the areas surrounding the neighbourhood have attracted large investments, and the land value has increased significantly. With the passing of regeneration laws in 2005 the district municipality of Sarıyer sought to declare Derbent a regeneration area but has faced significant opposition from local residents. When the change in government in Sarıyer took place in 2009, the new government put the project on hold. This was followed by an omnibus bill that transferred the authority to grant regeneration status from district to metropolitan municipalities. Furthermore, with the passing of the Disaster Law in 2012 a ministerial decree declared Derbent under risk, thus paving the way for the project's implementation. Sarıyer District Municipality has taken these decisions to court and won all the cases. The Derbent project has come to a halt with an administrative court order, and the neighbourhood's risk status has lifted.

Another example of institutional conflict is the Haydarpaşa Port renewal project. The project encompasses the historical Haydarpaşa Train Station, the expansive service hall and the coastal strip north of the station that includes the port. The regeneration process started in 2005 when İstanbul Metropolitan Municipality (İBB) devised a new master development plan for the space. The project cycle that sought to transform this incredibly valuable land for brand new functions met with legal obstacles the moment it started. As the area lies within the boundaries of two separate district municipalities (Kadıköy and Üsküdar), just where the planning authority lies has been a source of conflict. Afterwards, various chambers and

unions have gone to court on the grounds that the project goes against Coastal Law, environmental legislation and the existing Construction Law.

Finally, Kadıköy District Municipality has, for the same reasons, taken to court the area that lies within its jurisdiction. Having lost all cases, İBB has had to put the project on hold.

These kinds of institutional disagreements and conflict have surfaced nearly in all of İstanbul's large scale urban regeneration projects. In the neighbourhoods Fener and Balat the regeneration project proposed by Fatih District Municipality has been terminated as the result of opposition from professional chambers, local residents and protection agencies. Okmeydanı regeneration project has come to a halt due to opposition from professional chambers. Tarlabası project has again come to a halt as the result of the lawsuits filed in the midst of the project's implementation. Perhaps most interesting of all, Sulukule regeneration project has got shut down by court order after being completed in partnership between Fatih District Municipality and TOKİ against much opposition.

The common ground in all these examples is that regeneration legislation and laws are creating great **institutional confusion and conflict**, the latter triggering judicial processes in the absence of institutional coordination, thus incurring significant financial costs which become the end of projects.

Instead of devising the laws and tools to resolve institutional confusion and enable coordination between institutions, lawmakers have chosen to concentrate all power in the centre, creating a speedy process of urban regeneration that is segmented, one-off and far from holistic.

## Problems with the Planning Legislation

Another important reason why large scale projects are interrupted is because Turkey's existing planning legislation and hierarchy hinder the implementation of such projects. When a project is designed in the upper echelons of politics, for instance central government or the metropolitan government, but responsibility for land-use planning lies in the lower echelons, i.e. municipal governments, compatibility issues between institutions arise. As mentioned above, problems stemming from the planning hierarchy result in lawsuits in nearly all cases, thus causing interruptions to projects. Another issue is that Turkey's existing planning legislation does not cater to the 'flexibility'

need of large scale projects. As the existing legislation does not allow for flexibility or revisions in the project cycle, private investors and developers willing to become partners to big projects grow hesitant. We observe in the Kartal regeneration project how both these problems become hindrances.

Commenced in 2005, Kartal project was designed by İBB as a new business centre (MİA) on the large industrial estate that lies between the Kartal D-100 highway and the coastal strip. This 550 hectare area was designated an MİA by İstanbul Metropolitan Planning (İMP) in the İstanbul Environmental Plan. The project kick started in the same year when Zaha Hadid Architecture won İBB's international competition with their architectural project for the area. Even though all preconditions for the development of the area comprising idle industrial estates into a new MİA and transportation centre had been fulfilled, the project stopped in the face of lawsuits filed by Kartal Municipality and the Chamber of Architects.

There are two central factors that animated the lawsuits: uncertainty around the beholder of planning responsibility and the violation of current legislation by the flexibility of the project's many aspects. The project envisaged for Kartal gave significant room for manoeuvre to the project implementers and investors by leaving open the projected population density, the total construction area and the functions of different areas within the project.

## Social Opposition and Legal Resistance

Another significant reason for the failure to implement urban regeneration projects is the social opposition the projects have spurred. Notwithstanding the fact that urban regeneration laws require public participation in project implementation, the quality of public participation is left open and in practice the public has not been included in decision-making processes. Research has shown that decision-making regarding the projects has been one-sided, and what appears to be participation are in fact meetings where people are told about project details. The situation has become clear in Sulukule and Tarlabası, the first projects to be implemented in İstanbul, and the experience has been criticized frequently by urban opposition groups. The importance of participation, its necessity and practical absence have been well understood by local residents thanks to efforts from

urban opposition groups. As a result, people have mobilized against the projects' top-down approach.

For instance, in the Fener-Balat project local residents have formed an effective web of opposition against interventions unbeknown to them and lacking their involvement, and used legal means to stop the project. Again in neighbourhoods of Gülsuyu-Gülensu, Başibüyük and Derbent, people have weaved an effective web of opposition against regeneration projects, and have had their municipalities and central government back down.

## Evaluation

Urban renewal is undoubtedly an important and necessary political tool for cities in Turkey. For the rapid and disorganized development of Turkey's post-1940s cities, a well devised, rational, holistic and consensual social renewal policy is crucial to minimize the humanitarian and economic losses that natural disasters such as earthquakes can cause, as well as to realize the spatial and social changes necessitated by post-industrial economic growth strategies.

Yet, as the aforementioned bad examples demonstrate, Turkey's post-2002 urban regeneration politics lacks the laws, institutions, legislation and vision to bring about these much needed transformations. While AKP has taken a step in the right direction after election by making the decision to devise urban regeneration policies, it has unfortunately failed to create a renewal politics that is based on the agreement of the people, where different institutions can act harmoniously, and is supported by a rational legal-institutional infrastructure.

Failed cases of urban regeneration show us that urban regeneration in Turkey is problematic in its legal and administrative infrastructure, and is far from being rational. This problematic institutional and legal infrastructure has made it incredibly difficult for actors and stakeholders involved to work in harmony and to create mechanisms and institutions to overcome existing/potential coordination problems. It is for this reason that the moment a project has emerged it has brought with it complex problems that have caused projects frequently to come to a halt.

These large scale projects, especially considering their novelty, necessitate a different institutional structure, planning vision and legislation:

- i. The first step in this direction must be to **make municipalities the main actor in urban regeneration** projects through local governance reform and to effectuate developments that can eliminate conflict between municipalities and central government.
- ii. The second necessary change is to **establish professional bodies such as project management** companies to solve project-related governance and coordination problems. In Turkey, significant incompatibilities arise from old institutions and ways trying to realize this new area.
- iii. Thirdly, large scale projects that affect local residents in a multitude of ways **require active participation and decision-making mechanisms**. In the absence of participation, the needs and priorities of local residents go unnoticed, spurring strong opposition which makes the implementation of projects ever difficult.

Unfortunately, for the last few years we have been observing that these kinds of institutional and legal arrangements are not being undertaken and urban regeneration policies more problematic and potentially unsuccessful are being devised with the passing of new laws and the creation of institutions. Especially since the passing of the Disaster Law in 2012 and the creation of the Ministry of Environment and Urban Planning central government has concentrated nearly all authority in urban regeneration policies within its being, limited to a great extent the power of local government, and used this concentrated authority to realize a short-term, profit-minded, fast and aggressive urban regeneration politics. A segmented approach to urban regeneration that targets individual buildings seems to have paved the way for short-term gains for property owners, contractors and other sectors connected to the construction market. Yet, it has also created the conditions for bigger problems in the medium to long-term. The new regeneration politics fails to channel public and private sector resources into areas that need renewal the most. Instead, it has been triggering regeneration in areas inhabited by an already affluent segment of the population and where profit-seeking behaviour is likely to spread fast.

Moreover, as already seen in places like Fikirtepe and Bağdat Caddesi in İstanbul, bankruptcies stemming from excess supply, and spatial and social issues arising from increased density are taking place. And this kind of regeneration is far from consensual or based on public participation. The views of professional chambers, scientists and civil society organizations criticizing and offering remedies to existing urban regeneration practices are not being effective or sufficiently taken into consideration in the law-making and project implementation processes.

Lest it be forgotten, while it may seem as if a halt in collective intelligence serves the short-term the interests of a certain group, in medium to long-term it may produce 'tragic' outcomes for these small groups as well as larger segments of society. Prioritizing and protecting the collective good, on the other hand, is the primary duty and responsibility of lawmakers and law's implementers.



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