

The Importance of Property Ownership and Management System in the Ottoman Empire in Point of Today

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Key words: Land Management, Property Ownership and the Ottoman Empire.

SUMMARY

The properties in point of ownership in the Ottoman Empire, the only country dominating over three continents such as Europe, Asia and Africa after The Roman Empire, were evaluated in five groups. Forests and agricultural areas characterized as land together with areas such as pasture, summer pasture and winter quarters required for stockbreeding were determined as state property (“Miri Arazi” in Turkish). The use of state property was given to farmers and peasants in certain rules providing that ownership unaccompanied by usufructuary right of these lands was given to the State. It is seen that the Ottoman land management based on land processing in productive way when cadastral documents and records related to properties are investigated.

The world population has risen rapidly recently, so the use of all earth resources particularly land and water in planned and efficient way without wasting is inevitable. For this reason, firstly land ownership and management system should be reviewed appropriate to scientific researches to meet requirements in future. During this review process, the investigating of successful systems in the past will be useful. The Ottoman land management system is also one of these successful systems. Indeed, some foreign researchers from countries directed by means of state system have continued their investigations on the Ottoman land management. Investigating of features and cadastral contents of this system in detail and evaluating of applications guiding today are important. In this paper, it is investigated how title records and cadastral applications in the Ottoman Period can be beneficial in today.

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1. INTRODUCTION

Land was the main of source of production until the 19th century before industrialization. Productive agricultural lands were attracting regions. Coal and oil regions acquired importance instead of agricultural lands in the 20th century, which fossil fuels increased in value. As for 21st century, it has been understood that every points in the earth's surface has a separate importance and unconscious usage of natural sources revealed some worries toward future. Developments having global effects such as decreased land, polluted air and water and deteriorated balance of climate are samples of these. Thus, more attentive usage of natural sources has been compulsory. This is implemented by means of collecting correct and complete information, planning and application in free of deficiency. In this context, ownership, usage manner, soil ability and other detailed information are needed to plan the earth. In the past, private and legal people also used and dominated over the earth sources. Tribes, States and Empires have managed land and its usage. One of these was also the Ottoman Empire. It managed the Middle East, the Balkans, the Europe and Africa lands for six centuries.

2. THE OTTOMAN LAND MANAGEMENT

The Ottoman Empire was founded in 1299 by Turks near Bursa. In a significant time, the Empire expanded its territory. In the 17th century, the Ottoman Empire had its largest territory on the Anatolia, Europe, North Africa, Middle East and Southeast of Asia (See Appx. 1). At that time, the Ottomans were firmly entrenched in the strategic lands linking three continents and dominated the surrounding seas (Biyik and Yomralioglu, 1994). The permanent expanding of this Empire was stemmed from justice and trust provided by the Ottoman Empire rather than weakness of military forces of conquered countries. Inasmuch as, according to the Ottoman basic philosophy, keeping in reserve countries is more important than conquering countries. This can be ensured with fair management. Therefore, everybody living in the Ottoman boundaries benefited from principles of liberty, justice and equality without language, religion and race discrimination. The Ottomans also applied these principles for management of lands, which were the most important and fundamental production source for centuries. That the Ottoman land management was fair was fundamental base of its living for six centuries. However, deteriorating of this management was the main of decomposition reasons of the Empire (Hammer, 1830).

The Ottoman Empire governed with *Eyalet (province) system*. *Eyalets* also were divided into the *Sanjaks* (subdivision of a province) and the *Kazas* (administrative and juridical district of a Cadi). Because every *Eyalet* indicated the wholeness together with social environment and means of subsistence with its own peculiar custom and beliefs, it governed with a private

Kanunname (statute book) in the local sense. While lands were being recorded in Tahrir Defter (fiscal registers) defining land management, Kanunname of concerning province (or Eyalet) was also attached usually to the initial part of the Register (Ayni, 1602).

Fundamentally, the Ottoman Land Management was based on Islamic Principles inherited from the Seljukids and Sasanian Empire. Later on some local traditions and old Turkish customs were also incorporated into the system. Its fundamental was based on Ikta system giving lands as a fief to certain officials in lieu of public and military service. This system was done written matter by Ebu Yusuf, one of Muslim scientists, and was improved more by Nazm-ül Mülk, Seljukid vizier. This system was called as Miri land system or Dirlik (fief) system and sometimes also as Timar system in the Ottoman period.

In the Miri land system, according to Land Code (Arazi Kanunnamesi), the land basically divided into five categories. These were: Miri (State) land, Mulk (Private) land, Vakif (Charitable and religious) land, Metruk (Tribal and collective) land and Mevat (Waste) land.

Miri land was in the ownership of State and only its usage right was left in the disposal of certain people in certain rules. It was not possible that Miri land was turned into other land varieties without Sultan's permission.

Mulk land was the land that held by real or legal person. It consisted of the land occupied by peoples' houses, gardens or small arable land in the villages, districts and provinces. Since the benefits of any improvements accrued solely to the owner, there was every incentive to develop the land.

Vakif land was trust land whose revenues went to the religious or charitable bodies. Some people such as passengers, patients, old people could only benefit from Vakif properties in mentioned way in the Vakif registers. For example, if a person whether he was rich or not traveled as passenger, his/her requirements such as sheltering, food and health were met in free until three days and three nights. By means of this application, everybody could travel and have possibilities of education and working in great centers easily (Çataltepe, 1991).

Metruk land was allocated for public benefit. Nobody alone could utilize these lands. There were two categories concerning Metruk lands. These categories were as follows (Özmen and Çorbali, 1988):

- Places whose usage rights were belonged to everybody (roads, public square, fair ground, place of prayer etc.),
- Places whose usage rights were belonged to people of particular village or district (pasture, summer pasture, winter pasture, watering place for animals etc.).

Mevat land was the land that could not be used in effective way. For example swamp, desert, rocky and clay areas etc.

3. MIRI LAND SYSTEM

3.1 The Ownership and Operating of Miri Lands

Bare ownership of Miri lands was belonged to the State and, in behalf of the State; its usage was given people whom the state approved in return for duty or price. Since most of the Ottoman territory in area was Miri land, the Ottoman land management system was named as Miri land system.

Miri lands were classified in accordance with their annual incomes. If the annual income was less than 20 000 akche, it was called as Timar (Small Fief). Since most of Miri lands were in Timar category, this system was also called as Timar system. Lands called as Timar mostly were assigned to military commander called as Sipahi (cavalry soldier). If the annual income was between 20 000- 100 000 akche (Akche is a money unit which was used in the Ottoman Empire), it was called as Zeamet (Middle Fief). These were assigned to Subası. If the annual income was more than 100 000 akche it was called as Has (Large Fief). The management of Has lands mostly were assigned to possession of the Sultans, the Şehzade (prince), Sultan's family and viziers. Since all of these lands were also called as Dirlik, Miri system was called as Dirlik System in the some literature.

In the regime system of Miri lands, production was done directly by farmers and peasants living in related lands. These people gave a tax called as "aşar" or "öşür" at the rate of 10 %. After Dirlik owners collected this tax and performed their duties defined by agreements between the State and them, they themselves also got share from remaining income. These duties were implemented either by giving tax or contributing to military expenses at the defined amount according to Dirlik's income.

The main principle of Miri land management was based on maximum usage from lands. Indeed, when farmers and peasants who personally done production produced very much, they were more profitable because the rate of tax was fix. Thus Dirlik owner also was profitable. For this reason, mutual regard and trust should be between Dirlik owner and producers. This was also provided with only fair management. On other hand, if a person didn't operate arable land in productive way, this land was received from that person and was given any other person. In this respect, Dirlik owners were as civil servants (Cin, 1985).

3.2 Benefits of Miri Land System

Miri land system alone wasn't a system with partisan of state control. However, there were a lot of benefits in the event of evaluating together with other lands. All land was not dispose of private individuals in limitless way. So, pressure against the State and public interest was less. Thus, the State could act more free in the condition of public interest and make public works and land adjustment both urban and rural areas in rapid, cheap and easy without expropriation. Precautions relating to taking more produce from unit area were dependent on permanent control and supervision of civil servants. Furthermore, land acquisition by means of İhya namely bringing wasteland into cultivation was permitted. Thus, that such lands were

transformed into agricultural lands was encouraged (Başpınar, 1999). This application is the first in the world. In this system, since forests were also regarded as Miri land, they were preserved. With Vakif land application, social working together and solidarity was widespread. Beside Miri Lands, private ownership also was permitted at the limited amount.

3.3 Degenerating of Miri Land System and Transition to Private Ownership

Degenerating of Miri land regime was commenced with decreasing of the State authority affected from some factors. These factors were: Dirlik owners used their holdings power against the State, put pressure on people in their own jurisdictions, and didn't fulfill their responsibilities toward the State. The passing of Miri land via heritage caused more decreasing of produce in the lands. Thus, Miri lands de facto were passed gradually to possession of law owners until Republic of Turkey was established in 1923 instead of the Ottoman State (Cin, 1985). With new Turkish Civil Code (1926), Miri land qualification was legally abolished and, thus the lands having possession provisions were transformed into private ownership. However, other lands were remained as public domain in the judgment and disposal of the State.

In Turkey, lands used by private and legal person and defined by law are given parcel identities by demarcating and then are registered. After that, its owners are given a title certificate called as Tapu in Turkish. This application was commenced in the Ottoman term and also continued in the Republic term. A sample of title in the Ottoman period is given in Figure 1. There are also Parcels used with possession in the places whose cadastres have not been done yet. On the other hand, almost all of agricultural lands are in the scope of private ownership. Except private ownership, Public and Vakif lands also exist. Besides, Metruk land application in the Ottoman term has still continued. Such places aren't given parcel number. They are only indicated on the cadastral map. All of lands except these mentioned lands are in the judgment and disposal of the State. Forests among these places are registered in the name of public treasury. Pasture, summer pasture and winter pasture are registered in the name of public treasury and given to the usurpation of particular village and district. Coasts and stream channels are available for public and are not registered. Unproductive lands such as mountain summits, Rockies, deserts, marshes are not included cadastral work area (The Cadastre Act, Article 4 and 16).

4. MANAGEMENT OF PUBLIC DOMAINS

In Turkey, real properties are classified in two groups. These are properties of the State and the properties of private and legal person. The State's properties can be classified as seen Figure 2 (Özmen and Çorbali, 1988). Real properties obtained by means of Ihya, firstly, are considered in the possession of the State. These properties are named as public domain.

Magnitudes, places and abilities of existing public domains are not completely determined except places the cadastre done in Turkey. Either the State or the State Agencies or private

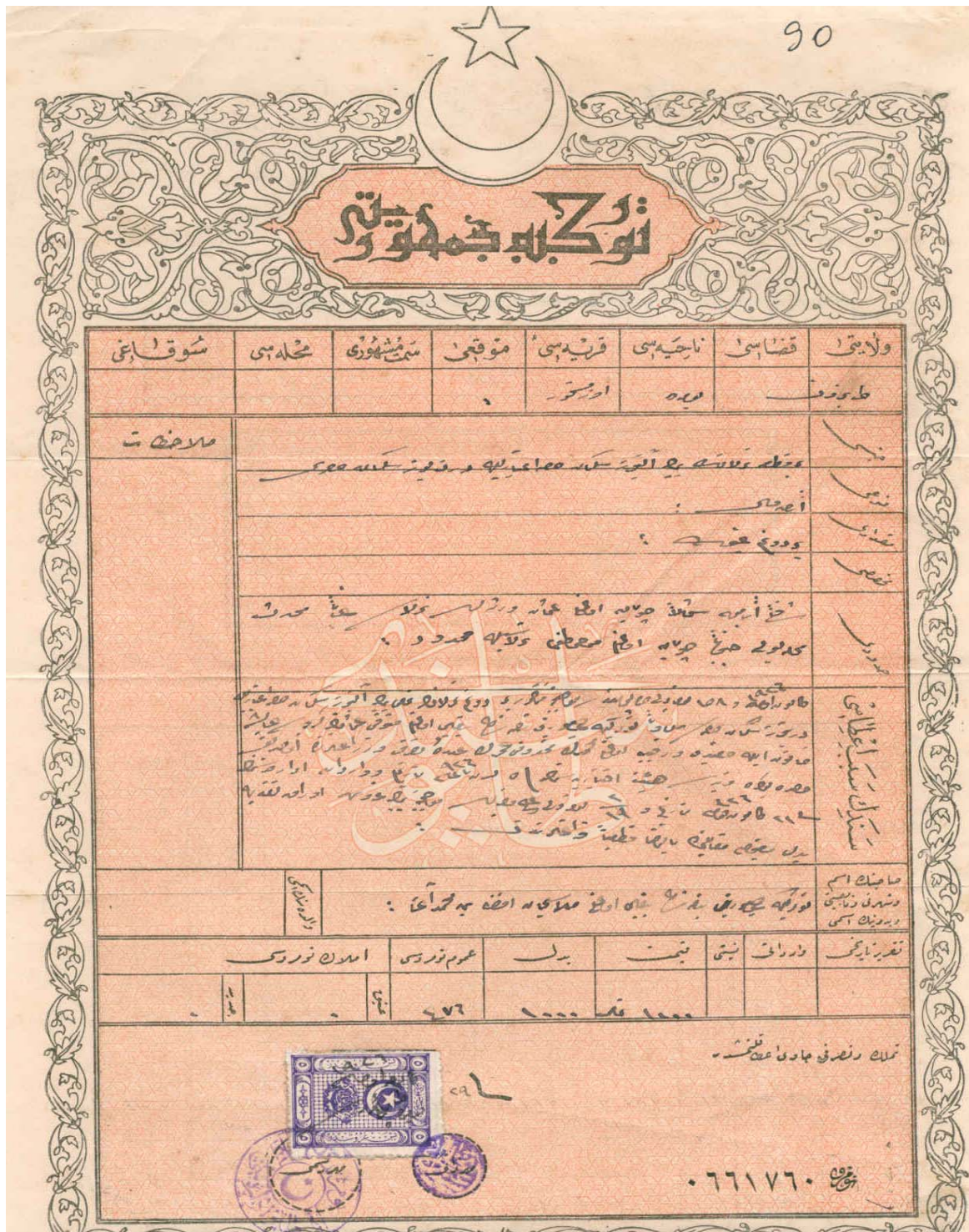


Figure 1: A sample of Title Certificate in the Ottoman Empire

and legal person operates places determined and registered as public domains. Private and behalf of treasury opens the case related to rent indemnity (namely Ecri Misil) for lands used

via occupation. The State sometimes sells the lands, which couldn't be operated. But, this cannot be implemented adequately. Therefore, it cannot be said that public domains are operated in productive as Miri lands. But, these lands are benefited in establishing of the field of public utilities easily because of not necessary expropriation. On the other hand, it is seen that inactive public domains are used in efficient with required determining and orientations. But, this will be provided with multipurpose cadastre. Recently, In Turkey, such a cadastre namely cadastre information system was commenced to establish (DPT, 1999).

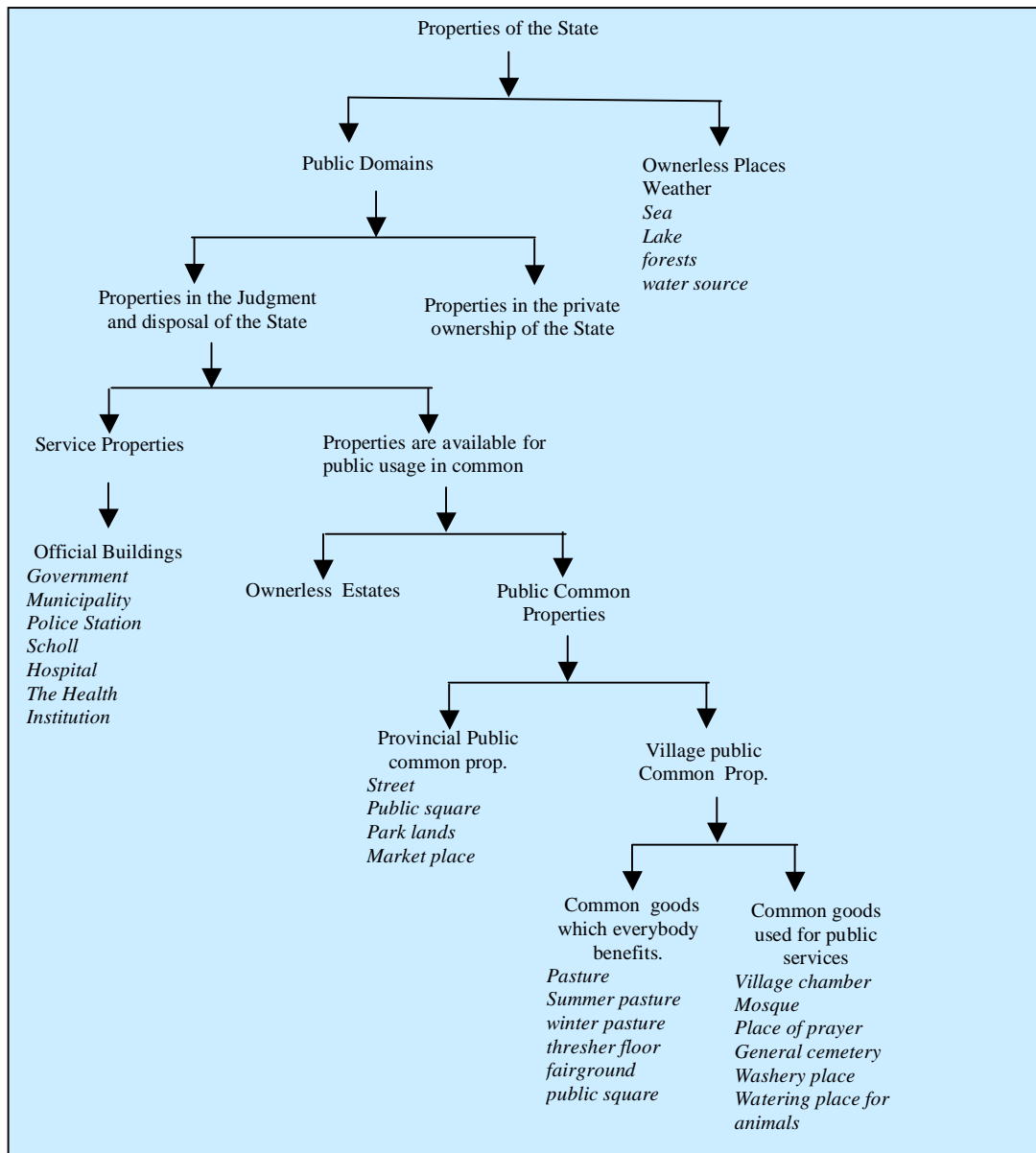


Figure 2: Properties of the State

5. LAND MANAGEMENT IN THE PRIVATE OWNERSHIP

According to Turkish Civil Code, an owner has absolute usage and disposal right in the vertical and horizontal boundaries of his property. This absolute ownership is only limited for public interest with law. Otherwise, its owner or possessors have the right to bring action. Private ownership is kept in the background of public interest in the rights of way, water and road, zoning plan applications and obtaining public building and other public areas. In addition, the State can put restrictions for becoming widespread and implementing of agricultural activities by making laws. For example, defining of product variety and amount. Briefly, Turkish system put public interest before private right and benefits.

Public interest is taken into consideration in the usage of private ownership right in the properties and also cannot be damaged. Although public interest decision is investigated in detail, public damage isn't investigated unless it is subject to complain. In the circumstances, maximum profit provided from properties decrease with arbitrary and irresponsibility attitude and applications. For example, a farmer doesn't produce in his registered land to not need or he doesn't strive against factors impeding production. These all have affected not only other people but also living creatures world in negative.

6. THE IMPORTANCE OF USAGE TYPE OF PROPERTIES IN THE GLOBAL WORLD

The world is growing by geographical discoveries, on the other hand becoming small by scientific and technological discoveries. Human beings who formerly predicted the weather conditions in only time and place in appearance nowadays can learn predicted information for any place in the world from the Internet and media in a few days earlier. For example, it can be learnt how the breezes coming from the Balkans, cold weather from Siberia and hot weather from Africa can affect Turkey. Water and weather on the world change in position indefinitely. Therefore, living beings in the other side border are also affected from hazards on water and weather. In spite of the fact that land is in the border, there are some universal effects of land and using of living life on the land. For example, not only living beings in there but also the other living beings can be suffered harm from destroying utterly of rain forest declared as lungs of the earth. Similarly, not only Ukraine but also mainly Turkey and many neighbor countries have been suffered harm from nuclear accident in Çernobil. It is impossible to mention about unlimited usage of absolute ownership because of these types and examples.

The most important feature of private ownership is to transfer from one generation to other by means of inheritance. Thus, a person acquiring a property by means of land register does not avoid from investing in it as far as possible. Because, he knows that this investment will remain to his children and other relatives. However, the power of unlimited usage can cause of bad results. Therefore, with mainly zoning laws and many legal regulations, some limitations can bring in property usage. Thus, the rights of other people are also on parcels on the earth apart from sovereignty rights of individuals and countries. Restitution of these rights

to owners will be possible with universal usage rules in the light of scientific determinations. Alike rules, which people living on city, must obey as price living on city.

7. THE IMPORTANCE OF CADASTRE IN PROPERTY OWNERSHIP

Whether real property ownership is in legal and private entity or in state; legal rules directing property usage must be. These rules can have personal, regional, national and even international qualities. By determining and implementing of these rules, wasting in property usage together with social comfort, peace and welfare, will be prevented and also coming generations can be benefit from natural sources on the earth.

In the past, information related to properties was written to special registers. In the period of the Ottoman Empire, these registers were called as “Tahrir Defters”. Registers similar to the Ottoman Tahrir Defters have been used in almost all Mediterranean Countries and European Countries before and after this time. But, these are different in point of content. In this context, the main purpose of Domesday Book arranged in England was to determine and to tax properties (Çiçek, 1995 and 1997). In today, these documents known as written cadastre have been shed light on workings about historical, geographical, social, cultural and economical domains except for ownership knowledge.

After that, linear cadastre was replaced to written cadastre. Finally, digital cadastre was started. Thus, modern cadastre, which can answer expectations in most countries, was commenced. However, it is required that modern cadastre should be improved in point of content and scope. For this reason, cadastral information about properties should be updated with a new content and scope by reviewing after determining of the region, the country and the world standards. Thus, ownership, usage and management of properties will be put in order thanks to cadastral information system established.

8. RESULTS AND SUGGESTIONS

Natural and economic sources of the world are becoming less. Agricultural lands and waters in the earth also lose in value day by day because of abuse. As a result of this situation, it is necessary to discourage of abuse of ownership right in the properties. For this, it is required that interferences to property usage and management by legal ways without exception should be done in time rather than changing of current ownership understanding.

Evaluating of applications done in previous years by reviewing from time to time is a known method all along. This is similar to again making use of medicine, used formerly, when the same illness occurs. Nowadays, even developments in manufacturing sector decrease as if interest to agricultural activities, agricultural lands and water sources will be becoming stick out. Therefore, these sources should be used more carefully.

When the Ottoman land ownership and management system is investigated, it is seen that there are land entities appropriate for different types of disposal and usage from private to state ownership, and from Metruk and Mevat properties to Vakif properties. In these

applications, state sovereignty on country territories can be provided with obeying on justice and rights in management. Because the most of lands are Miri land, it hasn't been had recourse to an antidemocratic ways in public works. In the countries in which the private property is common, doing expropriation or readjustment solves this problem. In this context, while expropriation has people to displace, readjustment is more expensive in spite of more democratic.

On the other hand, one of the positive attributes of Miri land system is to encourage people to exploit lands in fertile and to increase the used lands by giving Mevat lands to recreating people. Even protecting forested areas in Miri land regime is one of the most important inheritances left in today.

Recreating of the Vakif foundation as a social service by revision closes a gap in today. Especially, these mutual aid corporations can be on the agenda to cause alone or handicapped people in big cities to be in community.

In order to develop projects based on correct data in all readjustments relying on land, multi purpose and extensive cadastral information is necessary. For this reason, in all countries, cadastre information systems with common standard and scope should be established and updated.

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BIOGRAPHICAL NOTES

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Appendix 1. The Ottoman Empire (The Ottoman Empire had its largest territory)

