ANALYSIS AND EVALUATION OF LAND REFORM ACTIVITIES IN TURKEY *

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Preface

It can be asserted that in the last decade no other subject has been as great a concern for politico-administrative circles as the land reform problem. Since 27 May 1960, uninterrupted studies and discussions have been carried out in the ministries, universities, the press and other interested circles. In this connection many reports, drafts of law, documents have been prepared; panel debates, conferences organized; articles and books written. Nevertheless, the subject did not become out-dated, nor has it been exhausted. It still retains its fervour. Moreover, it has not yet found a solution. Thus, having been considered seriously especially after 12 March, the land reform remains one of the most lively subjects of the day.

The Economic and Social Studies Conference Board deserves our grateful compliments for their choice in rendering this vital problem the subject of the present seminar. It is certain that the four-day proceedings, attended by native and foreign specialists will throw new light on the problem and bring certain obscure points of it into the open.

My present task in this seminar is to make a review of the land reform activities carried on to the present and the law drafts and principles prepared, and also to analyze, compare and evaluate them in order to show their respective merits and shortcomings. My discussions shall proceed in three sections. In the first section,

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folloving a brief introduction, I shall briefly consider the first attempt at a land reform in Turkey : The Law for Providing Land to the Farmers. The second section will deal with the work on land reform between 27 May 1960 and 12 March 1971. In this section, which constitutes the main body of the paper, ten law drafts and lists of principles prepared for land and agricultural reforms are taken into consideration, analyzed and compared. The third section analyzes and evaluates the present Land Reform Principles and Strategy and the Draft of Law on the Preliminary Measures for a Land Reform. A brief conclusion is given at the end of the paper.

This paper will show that today we do not need to begin everything anew; that there are valuable accomplishments which can constitute references in our attemps to solve the problem. To the instigators of these past accomplishments we owe many thanks.

The documents, in related work of which I have sometime personally participated and some of which were concocted behind closed doors and remained unknown for a long time, make up quite a volume and contain quite complex principles and conclusions. This fact increases the possibility of erroneous analyses and comparisons. While I assert the readiness to acknowledge the responsibility of my personal evaluation and criticism, I hereby beg the forgiveness of the authors of my references and my audience for my mistakes and possible forgetfulness.

Introduction

In a country like Turkey, where agriculture is the basis of the economy, the problems of agricultural lands have been considered important in all periods of history. During the greater part of the sovereignty which lasted over 600 years, the Ottoman Empire has applied a special land regime that is still being remembered with admiration. The regime relating to the agricultural land which was the most important factor of production at that time has been consisted of the foundation of the Empire's economic policy and attracted the State's attention and interest. The problems of land tenure were kept outside of the guidance of the drastic and unchangeable Islamic laws which applied to all phases of social and economic life, even including the public administration; special law governed the agricultural lands. It is not possible to talk about a uniform and unchanging land regime that has applied to the whole empire for the long period of her sovereignty. How-

ever, the common basis of the land regimes that were in force in different times and places was the limitations that were put on the individual rights of ownership and use of agricultural land as opposed to other wealth, and the State as the representative of the nation had a firm control over it. This original and traditional common law has been administered flexibly after making necessary adjustments depending on the conditions of the place and time.

The Ottoman land tenure regime had the agricultural, economic and financial advantages as well as the military and administrative ones. The system worked very satisfactorily for several centuries. Because of this the productivity of soil was not lost, always enough amounts of crops were produced, and social and economic justice and order in the nation was maintained. On the one hand, while the landholdings were saved of being divided in pieces that were too small to maintain the families living on them; on the other hand, the concentration of large estates in the hands of a few people who may become feudal lords was prevented. The farmers living on the State controlled **miri** lands had use-rights that were very close to the full-ownership; they were happy of their lots because they had social justice and security. This land tenure system was in accord with the political and administrative organizations as well as with the economic and social conditions, thus it kept the society in harmony, peace and welfare. It was because of this fact that there was no rebellion based on agricultural land problems in the regions under the Ottoman Rule, whereas the whole of Europe was shaken with peasants' disorders and revolts.

During the 17 th and 18 th centuries, when the Empire was in decadence the regime of land tenure also showed cracks, and after the **Timar** system was abolished in 1826 a vacuum and disruption in this area were augmenteed. The Land Law of 1858, which was promulgated in order to restore the peace and harmony by taking the place of unwritten traditional legislation tried to keep the agricultural lands under the State's ownership and to carry out the responsibility of regulation by means of public officials and **mültezims** (contractors). This law was distorted under the pressure from the internal and external sources and lots of **miri** lands became as personal properties through various ways.

In the early years of the Republic the Civil Code was adopted from Switzerland. It subjects agricultural lands in the same legal

status with the other immovable properties and does not bring special provisions which take into consideration the peculiarities of these lands. However, many jurists believe that the provisions of the Land Law which were not expressly abolished nor are contradicting the present acts are **de facto** in force.

As time has gone by the problems of agricultural lands have augmented in size and became more severe in degree. Among the main reasons for this fact are the legal emptinesses in the regime of agricultural land ownership, the rapid increase in population, and the slow pace of economic, especially industrial development that fails to absorb the excess rural population and leads to a high pressure on land. Thus, while on one hand, the lands were being divided in a limitless way and small uneconomic farm units as well as landless people (so called land hunger) were being created; on the other hand land holdings and farm units were fragmented and scattered around, so causing many socio-economic and technical problems. The scarcity of capital and credit together with the prevalence of an almost incessant inflationary pressure in the country caused the accumulation of agricultural lands in the hands of the capital-owners who prefered to live in towns and cities as absentee-landlords and continued to be busy with non-agricultural occupations. Like the ownership regime also the methods of land management by way of renting and sharecropping became disordered in time, and these economically weak people found themselves in a very difficult situation. In addition to the maladjustments enumerated above, the inadequacy of land title registers and cadastral mappings shook the feeling of security over agricultural properties, thus harmed the process of production.

While the economic and social life was being rearranged in the first years of the Republic very little things were done in the way of solving the land problems and cleaning out the bad remnants of the Ottoman land regime. Among the miscellaneous efforts spent during this period the following ones are worth mentioning: A special provision in the Budget Law of the year 1924 giving authority to the government to sell public lands to landless farmers at a price determined by the government which was payable back in ten-year installments; while some local chieftains who owned large estates in the eastern provinces were being transfered to the other parts of the country according to a special law promulgated in the year 1929, one provision of this law authorized the government to expropriate their lands in order to distribute them among

landless people, nomads and immigrants; one article of the Settlement Law of the year 1934 provided that those immigrants who already were farmers would be made land owners; the government always had the legal authority to sell public and **vakıf** lands to landless people.

I — The Law for Providing Land to the Farmers

The Great Economic Deppression of Nineteen-thirties, which also affected Turkey, shook the agricultural sector very badly. Among the efforts spent in order to restore back the stable conditions there came up the idea of promulgating a law aiming at removing structural deficiencies of the agricultural sector, improving land ownership regime, and making landless farmers landowners. Atatürk, the President of the Republic at that time, expressed this disorder and also gave some directives to the Grand National Assembly in his annual message of the year 1937 as follows:

> The foundation of our national economy is agriculture. For this reason we give a higher priority to the agricultural development... First of all, there should remain in this country no farmer without a piece of land of his own. More important than this is that under no circumstances should the farmer's holding, which is just enough for his family living, be broken up. The size of the land which can be operated by large farmers and landowners should be limited according to the population density and soil fertility of the regions.

During these years the Ministries of Interior, Health and Agriculture prepared drafts of law on land reform which was incorporated in the program of the political party in power; additional works were carried on by the party organs and some interested members of the Parliament. In order to facilitate the forthcoming reform the Constitution then in effect was amended in the year 1937. Article 74 provided that personal immovable properties may only be expropriated for public benefit after their market values were paid in cash. This provision did not leave any room for expropriating personal lands for redistribution purposes, and also made expropriation very difficult and costly. The new amendment provided that personal lands might be expropriated with the aim of making the farmer proprietor of land, and the amount of expropriation indemnity and the manner of payment of such indemnity would be determined by special laws. This amendment was clearly

adopting the principle that there was public benefit in making a farmer land owner and the expropriation of private property for this goal in mind was appropriate; furthermore, the amount of compensation in these cases might be determined differently from its market value and the payment must not be in cash and might be in annual installments.

The intervening World War II delayed the promulgation of the land reform law until the year 1945. In January 1945 when the government presented to the Grand National Assembly the bill that was prepared by the Ministry of Agriculture with a title «A Law for Distributing Land to the Farmer and Establishing Farmers' Homesteads» a big roar of opposition and dissention rose in the country. The section of the bill about the establishment of farmers' homesteads was removed by the Assembly with a belief that it was contrary to the national structure, and the rest of it was approved on June 11, 1945 with very little changes on it.

The Law for Providing Land to the Farmers embodied some important principles that generally were included in the land reform legislation. In the first article the goals were enumerated as follows : (1) To provide land to the farmers who own none or insufficient amount of land, in the size large enough to support them and their families and to give employment opportunities for the working members of the families; (2) to furnish these families who would receive land under the terms of this law or those who already have lands but are in need of production implements, with the capital for establishment, improvement and operations, and with equipment and stock animals; (3) to insure continuous cultivation of the nation's agricultural lands. More specifically, the law aimed at making the family farms the foundation of the Turkish agriculture, lessening the excess inequalities in the land ownership distribution by setting the minimum and maximum limits to the size of agricultural land holdings and operations, restricting somewhat farm tenancy and sharecropping practices which represent a primitive system of land management, creating a healthier society which could more easily resist to economical and political tremors by satisfying the land-hungry crowds; decreasing law disputes and bringing more security in agricultural ownership by improving land title and cadaster affairs; and finally, settling down the immigrants, nomads and transfered people on agricultural lands. For the sake of these praiseworthy goals the following kinds of land are being distributed : the public domain, the lands in

private possession of the State but not used for public service, the lands owned in common by the village entities, the lands without any owner, the lands gained by the State through the improvement of marshes, former river beds, etc., the expropriated lands belonging to the local administrations, the **vakıfs** (foundations in mortmain) and the private persons. In case of private properties, any amount in excess of 5 000 **dönüms** (a **dönüm** is 1 000 square meters) is absolutely to be expropriated. In the regions where agricultural land is scarce, the excess part above the limit of 2 000 **dönüms** if the farm is not organized in an orderly way, and the excess of even a smaller limit if the farm is rented out or given to sharecroppers. For the expropriated lands a legally fixed value based on the amount of property tax is determined; the payment of this indemnity is made with land bonds that bear an interest rate of 4 % and are redeemable in 20 years; and the farmers who receive land pay their debt to the government in 25 years without any interest charge on it. For a period of 25 years the distributed land neither to be subjected to any ownership transactions, nor may be divided.

With these provisions the law has the qualities and characteristics of a moderate land reform. However, it only is just to point out some of its shortcomings such as lack of provisions regarding land consolidation, tenancy and sharecropping regulations, encouragement and support for farmer cooperatives which would assist newly established family farms with their many needs. On the other hand, it is an unfortunate fact that this law has never been popularized well among the general public; even the landless farmers who could have benefitted most from it did not get familiarized themselves with it.

During the same post-war years Turkey passed through a political transformation from one-party system to a multi-party system, and the political atmosphere of the country was in slight turmoil. The opposition party which partly came to existence through the effect of this land reform law asserted that the law contained some anti-democratic provisions and criticized it very bitterly. Under these pressing circumstances the government, on one hand, delayed the application of the law; on the other hand, it asked the Parliament to make changes in its provisions regarding expropriation. The amended law which lost some of its reformist properties was restrainedly put in application starting the year 1947. Virtually only public lands of rather low productivity

were distributed and the expropriation of private lands was rarely resorted to only when the owner of the land volunteered. Because of the same political considerations, small quantities of land which were not enough to establish self-maintaining family farms on them were distributed in order to satisfy as many people as possible; thus, some more uneconomical small farms were created anew in addition to the existing ones. Since the provisions concerning the support measures and specifically credits also were applied only partially and poorly, the people who were given lands could not establish farm enterprises and settle down there. Even the limited and unsatisfactory administration of the law was not superwised well and continuously.

The total area of lands distributed in accordance with the Law for Providing Land to the Farmers from the beginning of its application until the end of the year 1970 amounted to 22 million **dönüms.** The number of families benefitted from this distribution were 445 876. Out of this much land 789 000 **dönüms** were supplied by means of expropriation. However, since the exropriation was mostly applied to the lands of **vakıfs** and local administrations, the portion that came from the private properties amounted only to 208 000 **dönüms,** i.e. less than 1 % of the total distribution. The sum of credits given under the terms of this law was TL 43.9 million. In addition, 27 million **dönüms** of grazing lands were assigned to the villages within the reform regions for use as common pastures.

From the above given explanations it is clear that the first experiment of Turkey in land reform was not very successful, that at the end of 25 year lasting efforts it was not possible to make the desired changes and improvements in the country's land tenure situation, that the number of farmers who were landless or owned only insufficient amount of land did not diminish, that the level of well-being of the farmers did not rise, that the division and fragmentation processes in agricultural landholdings did not stop, in short, that the land problem was not even near to solution. Besides, the long-lasting hopes and anxiety of the millions of farmers were not realized, and many sincere and idealistic supporters of the move were bitterly disappointed. However, some of the principles that this first law contained were useful for the land reform works that took place in the last decade, as it will become apparent from the following discussions, and the application efforts, although not so good, provided a valuable experience for

the administrative and technical staff of the related governmental departments.

II — Land Reform Activities Between 1960-1970

Land reform has been one of the primary subjects of discussion in the Turkish public opinion since the 1960 revolutionary movement. The subject was first taken into consideration about two months after the revolution as one of the first activities of the National Unity Government and was given to the Ministry of Agriculture as an obligation. During the periods of the Constitutional Assembly and the coalition governments activities and discussions were carried on with the same spirit. After the advent of the Justice Party to the government its prominence vaned and it left its privileged position in governmental programs and development plans to the agricultural reform. Also during this period activities in this direction lost momentum. Later, after 12 March 1971, it regained its place in the first rank of the governmental program.

Many law drafts and proposals have emerged during the years between 27 May 1960 and 12 March 1971. These were generally prepared under the coordinatorship of the Ministry of Agriculture by a group of technicians from the same and other related ministries and the universities. In each period the Ministers of Agriculture, as responsible political administrators, have influenced the general character of the drafts by indicating their political preferences and by partially participating in the activities.

The interest shown by Ministers in the reform activities and their contribution to the final products have been varied. Nevertheless, with the practical necessity of distinguishing the drafts from each other, it has become customary to christen a particular draft with the name of the Minister of Agriculture of the time.

From among a number comprising 9 drafts and 2 lists of principles and proposals, only two reached the legislative organ and was put into process there. The others either remained at the Ministry circles and on shelves or were published to be discussed in the public opinion. A complete list of them may be found below:

Number	*Year*	*Title*	*Minister of Agriculture*	*Outcome*
1	1960	The first report concerning preparatory work on land reform	Osman Tosun	Primeministry and National Unity Committee
2	1960	The Draft of Law for the amendment of some articles and annulment of one article of Law No. 4753, The Law for Providing Land to the Farmers	»	» » »
3	1961	The First Draft of Law on Land Reform	»	» » » »
4	1962	The Second Draft of Law on Land Reform	Cavit Oral	Primeministry and Constitutional Assembly
5	1963	The Third Draft of Law on Land Reform	Mehmet İzmen	Remained in Ministry of Agriculture
6	1964	The report of the Commission assigned to determine the principles that ought to be used as a guide in preparation of a draft of law on Land Reform	Turan Şahin	Primeministry and political parties
7	1965	The Fourth Draft of Law on Land Reform	»	» Primeministry and Grand National Assembly
8	1965	The Fifth Draft of Law on Land Reform	Turhan Kapanlı	Remained in the Ministry of Agriculture
9	1966	The Draft of Law Aiming to Provide Land to Landless Peasants, prepared by the Labor Party		Presented to the Grand National Assembly
10	1969	The Draft of Law on Agricultural Reform	Bahri Dağdaş	Remained in the Ministry of Agriculture
11	1970	The Preliminary Draft of Law on Agricultural Reform	İlhami Ertem	» »

A — A Brief Presentation of the Drafts

I now desire to first briefly introduce the drafts and then analyze and compare them.

1. In a memorandum dated August 1, 1960 from the Primeministry to the Ministry of Agriculture it was stated, «It has been considered to make a land reform in our country in accordance with the revolutionary spirit» and it was demanded «the subject is to be studied by a commission to comprise representatives of the Ministries of Agriculture, the State, the Interior, Finance and Reconstruction and the resultant report is to be sent to the Primeministry». Such a commission came together in the auspices of the Ministry of Agriculture and the Ministry of Law was invited to participate. After a short study lasting a month, «The First Report Concerning Preparatory Work on Land Reform» was submitted to the Primeministry. In the report the concept of reform and the land system of the country and its problems were explained, the decision to rapidly prepare a land reform of adequate dimensions to enable the execution of a real agricultural reform was praised; then four points inquired by the Primeministry were explicated and lastly in the final «measures» section proposals and advise were given in 13 articles.

2. The Primeministry approved of these measures and advice and asked the same commission first to combine the proposals to prepare an amendment bill for the existent laws and then to prepare a new land reform law draft. In a short time the commission prepared and submitted to the Primeministry «The Draft of Law for the Amendment of Some Articles and the Annulment of one Article of Law Number 4753, The Law for Providing Land to the Farmers.» As the concerned ministries had representatives in the commission and as the matter had urgency the draft was not sent to the Ministries for inspection. This draft which from the Primeministry reached the National Unity Committee unfortunately could not be realised as a law.

3. The commission, enlarged with the participation of the universities, the High Court of Cassation, professional associations and the State Planning Organization submitted the «First Draft of Law on Land Reform» to the Primeministry on August 4, 1961. The draft, which comprised a general and the articles' Leading Reasons, 86 articles in 12 sections, 3 provisional articles and 3 tables, could not be discussed and passed because of the imminent elections and recess of the Constitutional Assembly.

4. The first coalition government, established after the 1961 elections, had included into its program the preparation of a land reform law in keeping with the spirit of the Constitution and our

agricultural order. The first draft was basically adopted in the proceedings, the opinions of the various Ministries and governmental offices were examined, minor changes were made in the legal style and expression without any change in the main outlook, aims and general principles, new definitions were added and the table showing maximum land property size was revised and reshaped. The «Second Draft of Law on Land Reform» thus conceived, comprising 12 sections, 89 articles, 4 provisional articles and 3 tables, was submitted to the Primeministry and the public on June 9, 1962. The quick change of government prevented the draft from reaching the Assembly.

5. The draft was revised again between 1962-1963 during the period of the second coalition government. Among important changes were the addition of a section on cooperatives, three articles on the faciliation, protection and preservation of the land reform and a table showing the ceilings for real values to be affixed to land properties. Thus, the «Third Draft of Law on Land Reform», comprising 13 sections, 108 articles, 5 provisional articles and 4 tables, was returned to the Ministry of Agriculture because of a change of government although it had been submitted to the Primeministry.

6. The third coalition government had given a prominent place to the land reform in its program and seemed more resolute. The Minister of Agriculture first selected a small group comprising related specialists from the universities, the State Planning Organization, the ministries of reconstruction and agriculture, asked it to stduy the existent darfts and the opinions of various circles concerning them and to determine the most suitable principles for the new draft. After a short period of activity the «Report of the Commission assigned to determine the Principles that ought to be used as a guide in preparation of a draft of law on Land Reform» was passed to the Primeministry on January 20, 1964.

7. After it was examined and consented to by the party groups and the government the «Fourth Draft of Law on Land Reform» was prepared according to it and was submitted on January 11, 1965 first to the Primeministry and from there to the Grand National Assembly. After some changes such as the inclusion of a section concerning the execution of the reform in irrigation regions and new provisions on other aspects and some change in legal style, the draft, this time comprising 17 sections, 115 articles, 2 provisional articles and 3 tables was given to the urgent consi-

deration of a special and joint commission of the Grand National Assembly. However, again the change of government prevented the bill from being passed.

8. The Minister of Agriculture of the fourth coalition government found, in the short period in power, opportunity to render important changes in the draft. Although the structure of the draft taken back from the National Assembly was retained, its reforming character was diminuated by the exclusion of 5 articles and the amendment of many provisions. The «Fifth Draft of Law on Land Reform» which did not interfere with the private property right and which shunned difficulties was comprised of 17 sections, 110 articles, 2 provisional articles and 2 tables. This draft too reached no further than the Ministry.

All of the land reform law drafts used, verbatim, the justification of the first draft.

9. During these years when the activities on land reform slowed down within the governmental circles, some representatives attached to the Labor Party prepared a draft with a title «Draft of Law Aiming to Provide Land to Landless Peasants». This draft was presented to the Grand National Assembly on 12 May 1966 but it was not acted on. It aimed at making a drastic change in the ownership distribution of agricultural lands in the country.

10. The Minister of Agriculture of the Justice Party - which in 1965 had gained lone power - first tried to put land reform activities to sleep by pronouncing the slogan «We need an agricultural reform not a land reform» and then started work on predicting agricultural supply-demand lineations until the year 2000. This projection activity, generally conducted behind closed doors with a certain group, constituted the main labour of the Ministry for 2 years and a thick report prepared at the end, though published, was not disclosed to the public for a long time. Meanwhile, another group, with similar secrecy,started work on the agricultural reform. Thus, after these long years of preparation, a «Draft of Law on Agricultural Reform» resulted, comprising various measures for the optimum cultivation of lands, the organization of agfacilitating the development of the agricultural sector. In a newly faciliating the development of the agricultural sector. In a newly compiled leading reasons the state of agriculture in the world and in Turkey is briefly expounded on, then the legal grounds for such a reform and the technical, economic and social problems neces-

sitating such a reform are pointed out and the contents of the draft are analyzed. Comprising 19 sections, 198 articles and 4 provisional articles the draft contained, besides the usual provisions of a land reform law such as land distribution, consolidation, regulation of the tenant and share cropper status, the marketing of agricultural products, agricultural credits and state aid, the production of improved seeds and breeds, research training and education. This draft, which in the long years of its preparation was the primary concern of the Ministry, remained secret until recent days and was kept back even from some of the prominent members of the Ministry, let alone interested outsiders.

11. The second draft on the agricultural reform was prepared, again in secrecy, in 1970. This work, named the «Preliminary draft of law on Agricultural Reform» includes 14 sections, 97 articles and two provisional articles. Mainly it is composed by the exclusion, the modification and summarizing of some sections and articles of the previous draft. This preliminary draft, published without any leading reasons, still retains its secrecy.

B — An Analysis of the Drafts

(1) Land Reform Law Drafts :

The five land reform drafts prepared under the auspices of the Ministry of Agriculture have been largely inspired and influenced by the Law for Providing Land to the Farmers. The five drafts all have the same leading reasons and many provisions and principles are alike. However, it is observed that the draft developed in time, that by the inclusion of new articles and sections they become more refined and reforming. In this sense, the first draft, springing directly from the Law for Providing Land to the Farmers, evolved and developed through the years like a living organism and attained maturity. In the fifth draft signs of degeneration and retardation because of old age can be observed : some branches become withered. To prove this central idea I shall first briefly examine the five in the same manner and then with comparisons point out the differences. After finishing this, I shall separately take up the land reform draft that was prepared by some representatives attached to the Labor Party.

In the first draft the aims are providing land, remodeling tenancy and sharecropping for the better, consolidation, assisting newly established enterprises, establishing model villages and en-

terprises, enabling the continual cultivation of the land according to their specifications and the modernization and increase of agricultural production. The second draft adopted these aims verbatim. The third draft added the aim of encouraging the establishment of cooperatives, the fourth the aim of transplanting to the new dwelling lands the people who may not be helped in their present places. These are all indisposable aims to exist in a land reform of far reaching character. Thus, through the years, a draft more mature, more comprehensive and more suited to the country's realities and needs was developed.

The necessity of the tilling of the land by its owner in the best possible way, according to its specifications and its protection and the provision to supply technical aid and credit to its owner is one of the most general principles of land reform and it is existent in all drafts. Thus, the social responsibility of owning agricultural land is stressed and it is established that only those who can meet this responsibility would be allowed to own land.

Land would be given to farmers who own no land but work on others' lands as tenants or sharecroppers, to farmers owning very little land, to farm laborers, to adult peasants who want to leave the family community and to those who give up their shares in inherited land. The provision in the law for providing land to farmers, to give priority to graduates of agricultural and veterinary faculties and professional schools is existent in all the drafts. The size of land to be given would vary according to climatical conditions, the land use capacity and the irrigation conditions but in any case the land would be of adequate size to supply the sustainance of the family, providing additional income for investment and the development of the enterprise and ensuring the full use of labour force in the family. The price of the land would be paid to the state in twenty years starting from the January of the sixth year of distribution. This land could not be subjected to a change of ownership until the debt is fully paid or, if it is paid, for twenty five years, would be tilled by its owner according to the provisions of the law and in the case of the owner's death could not be divided.

Among the sources of land to be distributed public domain lands, those that are owned by the state or local administrations but which are not used for public benefit were to have priority. After these, land to be gained by improvement and other means

and lastly expropriated land would come. In the expropriation first land belonging to **vakifs** and local administrations, then private land in excess of certain limits, untilled land and the land of the transposed would be taken into consideration. The fourth draft included the provision to give leave twice the size of similar cases to the owners of model enterprises, thus, rewarding those who become examples to their circle by being successful farmers.

The real value of expropriated land is determined by a joint commission comprising state officials and farmers, according to physical features such as manner of land use, capacity class and economic factors such as transportation and marketing possibilities. A certain amount of this is paid in advance, the remainder to be paid in ten years with 5 % interest land bonds. A provision in the fourth draft enables an increase in the advance payment if the receiver consents either to invest in certain projects or to buy state bonds and public economic enterprise shares. Thus, the previous owners of expropriated land are encouraged to direct their funds into ways useful to the economic development of the country and the wasting of money is prevented. On the other hand, the value of expropriated land is paid full in advance to small land owners.

As the principles of the personal tilling of the land by the owner would be established the employment of tenants or sharecroppers would be limited to exceptional cases of the enlistment, long illness, invalidness, old age of the owner or other cases such as the owner being a widow or a minor. In these cases the transaction is in paper, the period is kept lengthy to prevent take-and-go ventures, the contract being automatically renewed in cases where full compliance to terms is shown by the tenant or sharecropper. Although left to the determination of the two parties the rent or share in kind could not exceed limits to be designated by a commission and 35 % of the gross product of the enterprise in question. The payment in cash or goods is left to the customs of the region, however only half of the rent and none of the share in the product could be asked in advance. During the duration of the contract investments for improvement executed by the owner with mutual consent would be added to the rent or share and similarly the unused part of investments of the tenant or share oropper which had not been beneficial to him could be claimed at the termination of the contract. Thus the care of the land by continuous

investments is encouraged. In the case of the sale of the land the tenant or sharecropper is given the right of preemption.

In reform regions land consolidation is executed by the decision of the Ministry of Agriculture where the land is fragmented into too small or uneconomical pieces and in other places upon the proposal of the Ministry of Agriculture and with the consent of the majority of the owners owning an excess of half of the land. Outside reform regions consolidation could be executed according to the Land and Water Conservation Law. In consolidation regions communal structures such as roads, irrigation canals, land improvement would be immediately erected. The interest of the credit debts to the Bank of Agriculture of the participant farmers would be halved for five years, they could be given free seeds, seedlings and breeding stock, their land would be registered without any documentation fee and would be kept exempt of land tax for ten years. Also, all the expenses of the consolidation would be met by the state.

In reform regions to accomplish work that could not be done by small enterprises or work that would be more advantageously done collectively to increase production, to facilitate the reaching of development and reform goals the Ministry of Agriculture enables and encourages the establishment of cooperatives on various subjects. It is mandatory to establish cooperatives in model villages and in cases where land providing or consolidation has effected more than 50 % of the farmers or in cases deemed necessary by the Ministry of Agriculture. Land receiving and consolidated farmers are obliged to participate in those cooperatives. It is provided that the small and family enterprises are represented in the directory boards of the cooperatives in a minimum proportion of 2/3. The Ministry of Agriculture could assist cooperatives investments by way of donations.

The joint execution of the land reform and the irrigation system would have various benefits such as facilitating the processes, saving, and preventing unjust escalation of values. For this reason in the fourth draft irrigation project regions are included into reform areas, the land in these regions are expropriated together with the facilities, desirous previous owners are rented their expropriated land until the termination of the project and the final agricultural habituation and use of the land is planned according to the prevailing conditions. The farmers of the region receive

priority in land distribution and previous owners of expropriated land the size of which exceeds the ceiling limit are left land at this limit, those that owned land below the ceiling are left sizes to be determined proportionally. The Ministry of Agriculture is given the power to determine the modes of cultivation, kinds of plant to go into crop rotation and the kinds of livestock to exist in irrigation regions.

All transactions and processes are rendered tax and duty exempt, state offices are obliged to facilitate these processes, dividing the established land norms is forbidden and the use of the land according to the law is constantly controlled. Besides itinerant courts to be established in reform regions, simple judgment procedures would be used in disputes. Ownership transactions concerning their land inside or outside the reform region of the residents of the reform region are stopped for three years. In all the drafts the definition of pastures, meadows and winter pasturage, their determining and distribution, their upkeep, protection and use are left to a special law to be prepared according to the land reform principles.

The first table annexed to the drafts shows the maximum sizes of fieldland to be distributed to the farmers. While in the first two drafts the country was divided into four climatical regions, in the other two drafts more realistic considerations increased the division to five climatical regions. As irrigated and dry farming takes place in all regions, all four drafts show the necessary sizes of four classes of soil to produce a certain amount of income. As these amounts rely upon technical calculations they remain unchanged through the four drafts (for example, 200 **dönüms** of first class soil for dry cultivation is given for dry regions, 20 **dönüms** of first class soil for irrigated cultivation in moist regions, etc.).

In the second table the maximum sizes of the portion of expropriated land to be left the owner are shown, according again to the climatical regions, soil classes and irrigated or dry cultivation. While in the first draft the most liberal amounts are allowed (for example, in a dry region, dry cultivation, first class soil 10,000 **dönüms;** in a moist region, irrigated cultivation, first class soil 1200 **dönüms)**, in the second draft these amounts are decreased almost by half (5,000 and 1,000) in the third to one-fourth (2,500 and 250) and in the fourth to one-eighth (1,250 and 125). Although these criteria are subject to political decisions what sort of a struc-

ture is desired in the agricultural sector, i.e. what size properties would be tolerated according to the particular concept of social justice adopted; even the level reached in the fourth draft exceeds sixfold of the sizes of family enterprises of adequate income and therefore should be deemed sufficient. On the other hand, only an expropriation done according to such criteria could yield a reserve from which distribution can be done to the landless and the inadequate landed. From this point of view it can be asserted that the drafts from the first to the fourth have shown an increase in reformatory quality and that last is the most advanced.

The third table gives coefficients for converting owned other kind lands into terms of cultivatable land. This entirely technical table is identical in all four drafts.

A table existent only in the third draft shows maximum real values to be determined in various climatical regions, in four classes of soil with different modes of tillage. When the temporal relativity of real value and its variance according to regions are considered determining a single figure for the entire country would be very objectionable. With these reasons in the fourth draft this table is excluded and the determination of real value is left to regional committees, with the indication, in the text, of principles to be taken into consideration.

As has been pointed out above, the fifth land reform draft has almost the same shape and form of the previous one. However, some articles are excluded and some changed painstakingly not to interfere with the rights of ownership even while conducting a land reform and to be mild imperative provisions, thus rendering the draft more democratic. In this way the draft has largely lost its reformatory character. It has gained a conservative and very mild feature. I shall now briefly point out these changes.

In the first article the statement «to reorganize the conditions pertaining to the ownership, use and cultivation of the land and the agricultural settlement necessitated by the administration of this law» is excluded and instead of it the inscription «to provide land to the landless or inadequate landed and to prepare the necessary conditions for the wise cultivation of these lands» is included. As evident by this change the fifth draft understood land reform in the limited sense of giving land to the landless and of facilitating the cultivation of this land. It does not want to alter the ownership status and settlement. From among the aims stated

in the remainder of the first raticle the provisions «transposing those who cannot be subject to development in their present dwelling place», «establishing model villages and family enterprises» are entirely left out and the aim of cooperation, to obliterate the mandatory character of cooperatives establishment and membership, is only described as encouragement. With the same considerations the provision existed in the third and fourth drafts preventing all ownership transactions without the approval of the Ministry of Agriculture by owners on their land above certain limits located outside reform regions is excluded. The aim of sustaning organized enterprises are added to the draft with considerations to increase production and enable development. On the other hand, organized enterprise is substituted for the model enterprise mentioned in the fourth draft and the provision that the portion to be left to the owner after the expropriation of such enterprises could not exceed 5,000 **dönüms** is put in. However, the definition of organized enterprises compared with the model enterprise in the fourth draft is given in a very large and loose fashion, as enterprises «cultivating their land in a productive and wise manner, using technical methods as far as possible and after the indication of their shortcomings in this respect redeeming them in adequate time».

The necessity of the cultivation of the land, withstanding exceptions, with the responsibility and direction of the owner is done away with, its cultivation by tenants or sharecroppers is allowed and thus an important principle of land reform in general, that of «ownership by cultivation» is uncomplied with.

It is accepted that only after the distribution of the reserve of land belonging or under the power of the state is finished will other land sources and among these expropriated private properties be considered for distribution. Thus, it is wished in essence that the reform movement, the function of which has almost been reduced to land distribution only, would for a long time be busy with distributing state lands and by sufficing itself with this much lands it would hardly touch the private properties.

The real value in relation to expropriated lands is assumed to be the market price determined in a free transaction, and the principle of assessing the value by considering physical and economic factors, that was developed in the previous drafts, is being left out.

It is a known fact that by inflationary pressures, speculation and other reasons, the market price of land continually increases,

severing all determinations of productive value on price. Because of this, values thus conceived, while providing extreme and unearned gains to owners of expropriated land would in the meantime increase the cost of the reform and would assign unmeetable debts to land-given farmers.

In the old drafts lands acquired by labour such as vineyards, olive groves etc. were during expropriation accounted for after they are converted to field land in the calculation of the land to be left to the owner but were never subjected to expropriation or distribution. In the fifth draft lands of this description were entirely left out and not counted in the calculation at all. As a result of this, the land conversion table (Table No. 3) is excluded from the draft. It could be seen that the complete exclusion of these relatively high producing lands from the reform calculations would impair the aims of correcting the inequality in property distribution and approaching social justice.

Again, in the calculation of the limits of expropriation, the provision in the previous drafts, providing for the calculation of the total amount of land owned by the members of a family is changed in favour of personal ownership. This change based on the consideration that «family ownership does not exist in the Turkish legal system; if the law is passed in the state it is, it would endanger the situations of husbands and wives with separate properties, resulting in their divorce and would prevent separate land owners from getting married» cannot possibly be justified. It would open immense possibilities of exploitation that would render the law ineffective. It would be possible to keep land from expropriation by registering each portion of the property in the name of one of the members of the family which would be extremely large in regions of feudal remnants.

In the fourth draft it is arranged so that land inside irrigation systems would be completely expropriated before the execution of the reform, the land being rentable to desirous previous owners until the completion of the project after which it would be resold with higher prices during distribution. The fifth draft rejects this provision on grounds that «it would mean forceful confiscation»; however, a provision «to establish the price of the land at time of the issue of the law and in the future to buy the land at the same price no matter how much the escalation in the market value, preventing the value oreated by the State project from going to the

owner» is included withstanding organized enterprise rights. However, in the original form the expropriation and the ensuing sale was to be processed with real value and the leasing to be done according to the provisions - included also in the fifth draft-governing the renting of land which has passed into the ownership of the Ministry of Agriculture, i.e. with a reasonable portion of the product. Therefore, the claim that the land would be forcibly usurped and that gross injustice would ensue is groundless. The proposed form, on the other hand, is inadvisable in several aspects. First, the establishment of the real value at the time of the issue of the law would result in bigger injustice and complaints as the execution would be belated. Secondly, during the time needed for the completion of the system expropriated land would have to either stay uncultivated or be cultivated by the state. The former would be waste and the latter an additional burden to the State and impractical to execute. Thirdly, when the system has been completed and the land distribution starts each person would be given land according to family enterprise criteria and injustice would be done to those who previously owned large lands. Lastly, if the provision that, withstanding the rights of organized enterprises means that their owners will be left up to 5,000 **dönüms** of land, it would be a source of greater injustice. With these reasons it is not possible to justify the above mentioned changes.

In the fourth draft it was provided for that the agricultural modes and techniques to be executed on irrigational systems taken into reform regions would be determined and controlled by the Ministry of Agriculture. This reformatory provision was found constraining and was completely excluded from the fifth draft. Thus endangering the results of the great expenditure and efforts to be undertaken by the State in the establishment of irrigational systems and the making of the reform.

In addition to these, the fifth draft has changed certain provisions of previous drafts with the aim of clarifying the expression, the legal technique and execution. In this respect, it has excluded from the text the concepts partial land providing and the small farmer. In the annex tables, the first, showing family enterprise sizes has been increased 25 % (for example, on first class soil, in a dry region, dry cultivation 250; in a moist region, irrigated cultivation 25 **dönüms** would be given); the second, showing the portions of land to be left to the owner after expropriation has been increased more than thrice (for example, in first class soil,

in a dry region, dry cultivation 4,000; in a moist region, irrigated cultivation 400 **dönüms** will be left).

Another work on land reform is «The Draft of Law Aiming at Distributing Lands to the Peasant Families that are Landless or Own Insufficient Amount of Land», which was prepared by Representative from Izmir Cemal Hakkı Selek and four of his friends, and which was presented to the Grand National Assembly on 12 May 1966. The draft consists of a leading reasoning, 50 articles in 8 sections, and an appendix table. In the leading reasoning, the land problems of our country are analyzed and the need for a land reform is brought up, the political, social, social-justice and economic aspects of the reform are explained, the objections to a land reform are discussed, and the principles of the draft are given. These principles are, (1) to give the land to the tiller, (2) a nation-wide and rapid reform, (3) taking the family as the unit of measurement in land distributions and expropriations, (4) making a drastic reform, (5) considering the benefit of the peasant people, (6) giving assistance and support by the State.

The goal of the draft is explained in the first article as follows : To give lands to the peasant families that are landless or own insufficient amount of land, to assist the peasants with the procurement of production means, to realize the productive use of the country's lands, to establish democracy as a true way of life by providing social justice in the agricultural sector, to make the peasant families free and well-to-do producers relieved of the tyranny of middle-men, and to provide a better way of operation for the country's economy as a whole.

At the top of the list for the kinds of land to be distributed comes the ones that would be expropriated from the private landowners. The maximum limit for expropriation applicable in the whole country is 500 **dönüms.** The official from the land reform organization together with the village council (which will be given great responsibilities in the administration of the reform) may diminish this limit depending on the productivity of the land, the kind of crops raised, and the mode of farming that might be possible to apply. As a principle, the minimum limit that might be set is 100 **dönüms.** However, for the irrigated lands, the lands under orchards or vineyards, and the regions where favorable micro-climatical conditions prevail, a lower limit than this minimum could be set, provided that the portion of land which is left to the owner may never be smaller than the amount that is sufficient for sup-

porting a family. All the lands belonging to **vakıfs** and foreigners, the uncultivated lands, the portions of the lands owned by the local administrations which are not being used for public services may wholly be expropriated. The process of expropriation in the whole of Turkey may be completed at the maximum in three years.

The expropriation indemnity will be fixed by a three-men committee composed of the representatives from the reform organization, the county and the village, on the basis of technical and economical factors which determine the physical output of the soil. The objections by the landowners may not stop the processes of expropriation and distribution; the judicial organizations are not allowed to produce verdicts with regard to stopping the action or precautional measures. The expropriation compensations may be paid in land bonds that would be redeemed in 10 years and bear an interest rate of 2 %.

For distribution purposes, the public domain, the lands in private ownership of the government but not used for public services, village pastures, summer and winter grazing areas, the land without any owner, the lands gained by means of improvement are also used. When these are not enough, the parts of the State Seed-multiplication Farms which are in excess of the rational operational norms may be used. The distribution is done immediately, at the maximum within a year. The lands are given away without any payment and as clear of any debt on it, and they are registered on the names of their new owners free of any duty. The order of priority in distribution is as follows : Landless tenants and sharecroppers, the tenants and sharecroppers who own insufficient amounts of lands, agricultural laborers who are landless or own little lands, those adult persons who are separated from a family, farmers from other regions. In each catagory first those who have more children, and second those who are poor have preference. The size of land given is determined by the village council together with an expert from the reform organization on the basis of providing a minimum subsistence to a family. With the exception of orchards and vineyards and the sections with favorable microclimatical conditions, this amount may not be smaller than 20 **dönüms** even in the irrigated lands. Those who now own the land must operate it themselves; they are not allowed to make any possessional transaction on the land until they die. When they die their land passes to their legal heirs.

The reform will be administered by an organization attached to the Primeministry and headed by an under-secretary. In the provinces temporary commissions will be organized. In addition, State regional agricultural stations will be established. The latter will hire out farm machinery and implements to the farmers at a low rate of rent, will act as intermediaries in the fulfillment of the farmers' needs with regard to production inputs, fight agaist plant and animal diseases and soil erosion control services. The organization of single- or multiple-purpose farmer cooperatives will be encouraged, but those who will benefit from the reform may not be forced to become members.

A special law for improvement of agricultural tenancy and sharecropping will be promulgated. A family may not own livestock in excess of a number which would provide an income equivalent to the one that could be produced from the piece of land in the size of expropriation limit in that region. In order to object to the expropriation indemnity assessed, a landowner must deposit as security an amount of money equal to tenyears' tax on that piece of land, tax is being computed at the asserted value of the land. If the legal authorities would decide setting a higher rate of indemnity than the previous one, the prorated portion of the security will be written off as the actual payment for future tax indebtedness. While administering the reform law, all kind of interpretations will be made in favor of the landless and little-landowning peasants. All kinds of land transactions affecting sales, divisions and transfer of ownership otherwise between blood-relatives up to fourth degree or between affinity-relatives up to second degree, or the distribution among themselves of a landholding owned in common by those relatives after 27 May 1960 will be considered void. All the sales, divisions and transfers of title otherwise made after this law is put in effect will also be considered void. The appendix table of the draft shows the positions of the reform organization.

As it is seen from the above given explanation, this draft of law has been prepared with a very different philosophy and spirit than the drafts that had been reviewed and analyzed in the previous pages of this paper. It brings hard provisions forcing the accustomed notions of law and ownership rights .It especially is apparent that the draft aimes at making a land reform which would include all the landless and little-land-owning peasants of the country, would be a nation-wide mass-action, and would be

carried out rapidly. Its characteristics are to be a land reform with a rather narrow coverage but bringing drastic changes in the land tenure system of the country. The basis of it is to distribute almost equally all the agricultural lands among all the peasants. The small producers will be assisted and supported by the cooperatives and the State regional agricultural stations. The problem of land consolidation is not touched at all in the draft. Furthermore, the supporting governmental measures that would help the reform for a successful application are insufficient in quantity as well as quality.

(2) Drafts of Law on Agricultural Reform :

We have stated that there were two drafts about the agriculture reform. The first one of these, like the demand and supply projections about the year 2000 which was prepared under the guidance of the same Minister of Agriculture and which also was, in a sense, made the basis for the agricultural reform studies, was very assertive. It covers almost all the natural resources, with the exception of mines, on a large or small scale, it makes its aim to regulate their legal status as well as their use. Apart from this, with the inclusion of the ensurement of the inputs such as agricultural credit, seeds, breeding stock and their effective use, marketing of products and price policy, state aid to the agricultural sector, research, education, organization of farmers, agricultural tax and insurance, fighting plant and animal diseases and pests, agrarian workers and other topics are mentioned. Some of these are extensively and the others very superficially covered. (*)

(*) The section headings of the draft and the numbers of articles in each section are given below :

Section No.	*Headings of the Sections*	*No. of. Articles*
I	The Aim of the Bill and the Terminology	2
II	Application Principles	6
III	The Land to be Put Under the Jurisdiction of the Ministry of Agriculture	4
IV	Improvement of Farm Structures in Agriculture	16
V	Land Consolidation	19
VI	The Use of Water Resources in Agriculture	13
VII	Use and Improvement of Meadows, Grazing Lands, High Prairies and Winter Grazing Lands	10
VIII	Provisions Concerning the Forests	5
IX	Regulation of Tenancy and Share-cropping	15

In the first article of the draft the aims are listed as the cultivation of land productively, raising the living standards of farmers, giving land to landless, guaranteeing agricultural production, realization of agricultural development. In order to reach these aims the measures that are to be taken are as follows : transformation of agrarian enterprises into orderly economic units, giving sufficient income enterprises to landless and small farmers, guarding of possession and ownership rights, higher level of production, securing of agricultural inputs, evaluation of products, appropriate use of land and water resources through development and protection, organizing farmers, management of agricultural activities on a research basis.

These short divulgences make clear that, above all, the draft has too large a scope. It is impossible to achieve the mentioned improvements and regulations within one law. These issues, each one of them comprises one important and complex problem of the Turkish agriculture, can only be solved through a series of laws. It would be too optimistic, even fanciful, and unrealistic, to think that these problems could be solved within one law. Therefore, as a whole, the draft is far from being satisfactory, and it is inadequate. Most of the problems have not been adequately manipulated as it should be in a reform draft, i.e. in scope, detail and quality. As an example, the order of pastures and grazing lands has been the trouble of this country for over a century and has been waiting for a solution. When the Civil Code was passed 45 years ago the need for a special law to regulate the legal status of pastures and grazing lands was accepted in principle. Unfortunately, since then, such a law has not been passed. To try to solve such an im-

(cont'd)

Section No.	*Headings of the Sections*	*No. of. Articles*
X	Farmers' Organizations	19
XI	The Productive Cultivation and Expropriation of the Agricultural Land	8
XII	Marketing of the Agricultural Products	6
XIII	Agricultural Credits and State Aid	25
XIV	The Bases of Production of Seeds and Breeding Stock	13
XV	Research, Education and Training	4
XVI	Financial Provisions	5
XVII	Miscellaneous Provisions	17
XVIII	Penal Provisions	3
XIX	Last Provisions	14

portant and a difficult problem within a section of ten articles is, doubtless, inadequate. In the same way, use of water resources, conservation and development of soil is too important and complex a problem to be solved with a section or a few articles. Forests are a special branch of agriculture in Turkey which have been placed on rather a satisfactory legal status. It is a worthy question how a section covering five articles would help to bring novelty to the case. Like these, marketing and processing, price policy, credit, state aids, seeds and breeding stocks, research, education, pest and disease control, all such topics have been covered superficially and inadequately.

Apart from this, some sections and articles contain unnecessary details and divulgences which could be realised through separate rules and regulations. For example, the consolidation section is made up of 25 articles, thus proving our assertions.

Furthermore, definitions article is trying to give extensive descriptions of 37 concepts. Including, some of the well known concepts (such as watershed area, unproductive land, improvable lands, application range, development plan, agricultural enterprise) are described, though these descriptions are sometimes incomplete and wrong (such as enterprise type, arable land, infra-structure in agriculture, maximum production from unit area). Thus, as a whole the draft shows an unbalanced edifice.

This draft whose main characteristic is aiming at agricultural development and increase in agricultural production and thus giving secondary consideration to the incurement of the land tenure problems, is completely inadequate in the sense of a land reform. «The regularisation of land regime in agriculture» is stated in the aims article and it is followed by the «guarding of ownership and possession rights.» Thus, this overtly shows the quality of regularisation and what the preparer of the draft understands from land reform. Generally, universally accepted land reform principles and basic rules of good reform laws, such as adjustment of property sizes, giving land to its user, landowner's personal management of his property and prohibition of absenteeism (absentee landlord who leaves the management of his property to second hands), giving land to landless and small farmers, protection of small farmers, tenants and share-croppers, protection of agrarian workers against landowners, are either not mentioned or inadequate. On the whole the draft brings too little to the landless and workers,

and in land distribution they are fifth and sixth in line. Apart from this, land procurement credit is given. But when it is known that this credit shall always be limited and, in the same way, the land that may be willingly bought by the small farmers shall be limited, too, the application of this provision will be very limited; mostly restricted with state owned and public domain lands. If large enterprises are productively managed or after receiving state aid and using the time allowed they become productive, then they shall be exempted from expropriation, regardless of their size. Lands that are nonproductive or cannot be made productive will only be partly expropriated. Thus making some adjustments in the now existing large holdings shall be almost impossible. Although there is a article which prevents the concentration of enterprises after the application of the reform law, the limit that is given by this article is 15 times the size of sufficient-income enterprises. Therefore, in practice, it will be ineffectual. In other words, the draft does not preconceive making an adjustment in ownership distribution of agricultural lands. On the other hand, absentee ownership on agricultural enterprises is completely free.

Management of enterprises through tenancy and share-cropping is left completely free with the exception of the newly organized farms. Such enterprises, as it should be in reform laws, are not restricted with exceptional cases. This is against the principle of owning land only by personal cultivation. There are no reformist clauses guarding the tenants and sharecroppers against landowners. A land holding can be rented or share-cropped at the most to ten different persons and the tenants can rent the same land to others. Rents and share-cropper shares, indemnification style and time can be freely determined by the parties. But tenancy share must not be over 10 % of the land's real-value and 10-50 % of the produce. Tenants and share-croppers cannot demand compensation from the land owners at the end of the agreement periods, for investment expenditures they had undertaken with the landowner's consent, if they did not benefit fully from their investments. All these clauses neither guard tenants and share-croppers nor encourage land development.

In land reforms family enterprises are increased and are made fundamental in the structure of agriculture. But the concept of family enterprise is not mentioned in the draft. Instead of this, sufficient income and orderly enterprises are mentioned. However, setting up of these enterprises will be very difficult for the land

to be distributed and complementary resources are very limited. Thus most of the agricultural enterprises will remain as small enterprises, same as today. In time these owners will be pushed towards becoming agrarian or non-agrarian workers. Therefore, it is understood that, their land will either be bought by the state or by other farmers through state credit. There is no limit to large enterprise. Medium enterprise size is 2 to 15 times larger than those that provide sufficient income. Furthermore, seed producers can exceed the above size by 50 %. Thus, today's unjust enterprise distribution will remain even after the application of the law. In other words, just as in the case of ownership, instead of a change in enterprise structure the present order will be strengthened and consolidated. On the whole, the draft has preferred economic aims, i.e. productive management of land, to social ones, i.e. social justice in ownership and in income distribution. Exceptions to this, though few, can be observed.

The State providing work for villagers living in forest regions and side-income for small farmers, acceptance of farmers housing as agricultural infra-structure and providing them through direct state aid or credit can be given as examples. However, such social justice measures will essentially remain as abstract wishes. Private ownership and individualistic capitalist mentality dominates the draft as a continual part of the above mentioned thoughts. Just as it is in large land properties, large enterprises that are measured by their production quantity and income are also guarded and given complete encouragement. For example, land that can be developed, grasslands, forest lands that are not state-owned, state water resources (for irrigation or water products production aims) can be assigned or put into the possession of persons or to their organizations.

On the other hand, the State shall undertake many obligations and assignments in order to develop agriculture. Some examples to these are given below: In the cases of socially profiting, low percentage profit earning, long term projects and also in the projects that bring novelty to agricultural production up to fifty percent of the cost of the investment shall be given to farmers as grants; some of the state agricultural concerns are turned over with reasonable terms, to farmers' cooperatives and organizations, credit, cheap land plots and reduction of income tax are provided to industries which are useful to agriculture; for those who are members of farmers' organiaztions, and those who participate in

land improvement, consolidation, seed production, irrigation programs, exemption or reduction in land and income tax is promised; reduction of tax is granted for those who facilitate the State's regulation of production and for those who do not confirm with the State policy additional percentage will be applied; technical aid spendings shall not be repaid by the farmer; special percentages of credit interests are to be paid by the State; 400 million Turkish liras must be paid from the state budget to a special aid fund and half of the profits of Iller Bankası (Bank of Provinces) must also be deposited to the same fund; credit aid and sale guarantees to those who produce seeds and breeding stocks. However, a large part of these State aids shall go to those who dominate the present agricultural order; as the agricultural order cannot be changed through a reformist policy, small farmers and family enterprises shall not be able to make use of these benefits. In other words, State encouragements and aid will be given to medium and large size enterprises who shall use them most productively. Thus, their efficiency will rise through this way, and the two aims which the draft is trying to reach, i.e. «guaranteeing the need of the country in agricultural products» and «realization of development in agriculture» shall be realized by rendering more state aids and guarantees then that has been given to this sector up to now. If we leave social, political, etc. thoughts to one side, and act according to the pure economic principles, then this could be an appropriate and a successful policy. But such a policy could only realize the draft's aim of «raising the living and income standards of farmers» for only a certain group of farmers. It can be definitely said that with limited State resources the number of those who shall profit from the reform shall not be very many.

The rates that are to be used in expropriating private properties are too liberal and the conditions of payments are very generous. When lands are freely bought by the State the payments are made one-fold quicker. The interest rates of land reform bonds have been set up on a higher level than those that of the previous land reform drafts and law. The rate is 6 percent and the duration is ten years. The price in expropriation shall be fixed according to the current market prices, the value of land's produce at the most profitable valuation and gold prices. Thus, the most capitalistic measure, the current market prices and the value that is to be worked out according to the enterprise's production capacity are being reconciled. In the meantime, when the gold prices

are taken into account with the above mentioned clause of free absenteeism, it is understood that the preparers of the draft assumed the traditional use of agricultural lands for speculative reasons even after the land reform. This weakens the draft's reformist character. Farmers are free to form unions and cooperatives and also free to become their members or partners. Such farmer organizations shall function with very small state interference and remain free private legal institutions.

Lastly, it is the duty of the scientist to point out some of the reformist principles of the draft. They are as follows: The best uses of lands and their natural boundaries in watershed regions are to be established, and separate development plans and projects for them are to be prepared. State organizations have to abide by these plans and private entrepreneurs are only to be encouraged to abide by them. If lands that ought to be within forest, meadow and pasture boundaries are not used accordingly by the owners then they shall be expropriated.

For settlement and non-agricultural purposes lands that are useful for agricultural production must not in principle be used. If agricultural lands have to be used for such purposes, then the Ministry of Agriculture's permission is needed. The Ministry shall give this permission starting from the least useful land for agricultural production.

It is forbidden to graze livestock on pastures, grazing lands and high ranges over their feeding capacity, not to follow rotation while grazing animals, and bringing in animals to the areas that were reserved for improvement purposes; those who do not observe these prohibitions would be punished severely.

Farm holdings may not be divided by way of inheritance, sale, etc. into smaller pieces than sufficient income sizes. Fields may not be divided into smaller parcels than the size given in the law, and cannot take any shape but the ones prescribed by the technique.

The most suitable crop patterns for watershed districts and agricultural regions as well as the crops that are in demand by the domestic and foreign markets are determined by the State.

All the agricultural inputs that are to be used by farmers must be secured and transported to the farmers. Their technical and price control is under the responsibility of the Ministry of Agriculture.

Farmers' housing projects must be realized and dung must be saved from being used as fuel. Thus, it must be used for agricultural production purposes through giving special conditions credit.

State aid will be given to small farmers that cannot be made sufficient-income for the purpose of providing them with side-incomes.

The Ministry of Agriculture must be responsible from the execution and coordination of all the functions and policies relating to the agricultural sector.

The second of the agricultural reform drafts is basically the same form as the first draft but has a narrow scope and is shorter. The four sections (forests, production of seeds and breeding stock, research-education, organization of farmers) of the previous draft have been completely left out, furthermore, the other sections and articles have been, to a certain extent, abridged and made practical. Thus, the draft has shrunk to 14 sections, 97 articles. (*) It has a larger scope as a land reform law, but its contents are weak. It has neither the leading reasons section nor related one to cooperatives, and it is a reform draft with little reformist qualities. Although its basic model is the first agricultural reform draft, most of the clauses have been taken from the previous land reform drafts; it has even taken a few articles and principles which were in the law No. 4753 the Law for Providing Land to the Farmers.

(*) The section headings and the number of articles in each section are as follows :

Section No.	*Headings of the Sections*	*No. of Articles*
I	General Provisions	5
II	Making the Farmer Landowner	11
III	Provisions for Expropriation	10
IV	Regulating the Structures of the Farm Enterprises	5
V	Land Consolidation	14
VI	The Use of Waters in Agriculture	6
VII	The Use and Improvement of Meadows, Pastures, Grazing Lands and High Ranges	8
VIII	Regulating Tenancy and Share-cropping	11
IX	Marketing of Farm Products	3
X	Credit and State Aids	6
XI	Financial Provisions	5
XII	Miscellaneous Provisions	5
XIII	Penal Provisions	3
XIV	Last Provisions	7

(**) Therefore, the draft has characteristically used all the previous reform studies and to a certain extent was dominated by them. However, as making use of the previous studies was not centered around one main principle, it could not synthesize well the different views and ideas, so it gained a character of collection and incompatibility.

According to the first article of the draft the aims are as follows: productive management of land, increasing of production, to raise agriculture's share in the national income, and to make possible a balanced and just participation in the national income of those who work in this sector. Accordingly, increasing productivity and production in agriculture, and consequently raising its share in the national income, that is to say, agricultural development is the basic aim. The second aim is given as the national income shares of those who work in this sector, within themselves and compared with other sectors, must be balanced and just. For these aims the following measures, according to the first article, must be taken : giving land to farmers, regulation of land tenure regime and the transforming of enterprises into orderly economic units, productive management of water and soil resources and their protection and development, increasing production, the acquiring and usage of agricultural inputs, processing and marketing of products, development of agriculture through planning based on research results.

If the mentioned measures have been put in order in accord with their importance, then this draft, differing from the first agricultural reform draft, has given the land distribution the first priority. Apart from this it has given this subject a special section. In this draft regulation of the land tenure regime does not mean protection of ownership and property rights; on the contrary, it means the transformation of enterprises into orderly economic units. It is not worth mentioning other differences apart from the already mentioned ones. The second article, which gives definitions of the concepts used in the draft, has been relatively shortened. There are 14 definitions instead of 37 and at the same time expressions are more clear and the confusing parts have been left out.

(**) For example, the definitions of the farmer and farming are taken verbatim from the law No. 4753; the clause that allows the farmers who repay their debts in advance of previously set time duration a discount of 5 percent on installments is likewise adopted from the same law and may not be seen in any other draft.

Most of the articles in the land distribution section have been taken, basically, from the previous land reform law and drafts with very few alterations. At the top of the kinds of land for distribution, those belonging to the State and those that may be gained through improvement come first. They are followed by the lands that may be purchased by the State, this provision being a novelty of this draft. At the end of the list come the lands that may be expropriated. The land is given in accordance with the following order of priority : The farmers whose inadequate lands may be made adequate, the farmers who own no lands, and the farmers who are being transferred to other places. Agricultural laborers, adult descendents who may wish to separate from their families, immigrants and nomads, and those heirs who may wish to separate from inheritance partnership are not accounted in this draft. The limitations imposed on the distributed lands and equipments are relieved at the time when the debts on them fully paid; there is no further limitation of 25 years, as it is seen in the land reform drafts.

In expropriation, like the other land reform law and drafts, the land owned by the **Vakifs** and local administrations precede privately owned lands. In private lands, magnitudes above 5000 **dönüms** at all land holdings, 2000 **dönüms** at land holdings operated by tenants or sharecroppers, and at unproductively cultivated land holdings land above 1000 **dönüms** if unirrigated and 200 **dönüms** if irrigated, at land holdings operated unproductively by tenants or sharecroppers land above 500 **dönüms** if unirrigated and 100 **dönüms** if irrigated and the whole of uncultivated land would be expropriated. These limits, as they do not taken into consideration land classes and climatical regions, are improper. The real value, to be decisive in land buying and expropriation and also in the indebtedness of the land receiver would be determined according to local land prices as well as natural and economic factors, the manner and ability of the cultivation of the land.

Enterprises with adequate income are determined according to the ecological and economic conditions of the regions by the Ministry of Agriculture. The sizes of these, according to various types of enterprise are to be 15-100 **dönüms** when irrigated, 50-500 **dönüms** of unirrigated land. As can be seen, these limits are twice as liberal as the fourth land reform draft. The integrity and continuity of the enterprises that are made well organized are protected

and withstanding exceptional cases, the owner has to cultivate his land personally.

The sections of the draft on land consolidation, the use of water resources, the regulating of tenancy and sharecropping, the use and development of pastures and meadows, agricultural credits and state aid, financial, miscellaneous, penal and last provisions are taken from the sections of the same name of the first agricultural reform draft with the exclusion of certain articles and with minor changes.

Changes worth mentioning could be summarized thus : the provisions providing for the giving of small or adequate-income enterprises only as a whole and to one tenant or sharecropper and if medium or large land holdings, in maximum ten adequate-income pieces to tenants and sharecroppers have been excluded. Minimum share-cropping periods have been extended from three years to four years. Two articles, one providing for the establishment of necessary facilities by the parties according to principles stated in the contract to which contract concerning the sharing of the income and expenditure will be included; the other, providing for the control of the efficiency of the cultivation of the rented or share-cropped land by the Ministry of Agriculture, are included into the draft. The articles necessitating the research, education and supplying information of the state concerning marketing are excluded. Likewise, most of the provisions about credit and state aid are excluded leaving the section with a few, simple articles. The minimum amount of disbursement to be provided the special fund from the state budget is increased to TL 500 million, the repayment term of indebted farmers whose income is inadequate to compensate for their debt are extendable up to 30 years, 5 percent discount is executed on installments paid before their due. The expropriation prices will be paid entirely in advance to small farmers, up to TL 100 thousand in advance to those who personally cultivate their land, up to TL 75 thousand in advance to those who do not, with the remainder in ten years with 6 percent interest. State bonds are given if desired. Up to a million TL may be paid in advance and the period of payment of the remainder halved to those who want to invest. The articles in the section of miscellaneous provisions concerning the prevention of land concentration, determination of land tax, authority to import and export, fight against plant and animal diseases, and conditions of

agricultural workers are excluded. Penal provisions are taken identically and last provisions with very little change.

These explanations show that the second agricultural reform draft, like the first, is a conservationist draft with low reformist aspects, prepared according to a capitalistic outlook, giving priority to productivity and efficiency, depreciative of the improvement in property distribution. Moreover, it displays a weak, colorless and defective totality as being a heterogeneous, conglomeration of the provisions of the previous drafts.

III — Land Reform Activities Since 12 March 1971

In the Program of Erim Government, which was approved by the Parliament at the beginning of April 1971, the land and agricultural reform was announced at the top of a list of reforms which the government believed that may be accomplished in the first instance, and it also is determined to do so. The brief explanation given in the Program pointed out that, (1) a land reform organization attached to the Primeministry is to be organized in order both to plan preparatory works and to administer the reform, (2) a draft of law aiming at debaring the families from owning landholdings larger than prescribed sizes will be prepared, (3) services of public agencies relating to agriculture will be coordinated and discrepencies among various agricultural policies will be smoothed out, (4) agricultural tax system will be revised separately, (5) cadastral surveying and mapping works will be hastened.

The government kept its promise and a new team of experts -although they did not confer with the closely interested organizations such as the Ministry of Agriculture and many experts of the subject- immediately took over the reform work. While it was expected to have first the establishment of the reform organization, according to the priority list of the Government Program, in the middle of August 1971 the Council of Ministers approved and published a document entitled «The Basic Principles and Strategy of the Land Reform». After a short while, when the principles and strategy were not yet studied and discussed by the general public, toward the end of September, 1971, «The Draft of Law on the Priliminary Measures for a Land Reform» was approved and transmitted to the Grand National Assembly by the Council of Ministers. Now we shall review these two documents and present our tentative opinions on them.

A — The Basic Principles and Strategy of the Land Reform

Our analysis of this document which is written in a very abreviated language will necessarily be brief and cursorily. Because the meanings of some expressions used are not fully clear. When the details of and the reasoning for the basic principles will exactly be presented in the forthcoming land reform law draft, the real meaning and characteristics of the reform envisaged will clearly be seen; only then a scientific and penetrating analysis of the subject may possibly be made.

We can, first of all, point out that the use of the expression land reform only is very praiseworthy. As is known, up to the last days, in fact, in the few months previous government program, the expressions land reform and agricultural reform were used side by side as if they were two distinct things. Thus, a fruitless argument, bothering many learned and semi-learned persons, as well as political and governmental circles and at the same time, confusing and belating thought and studies for 6-7 years has been abolished.

The first section of the four-section document gives the definition and content of the land reform. In this definition it is asserted that the land property distribution, enterprise forms and institutional structure would be reorganized, that principles of social justice and productivity would be basic in this re-organization, that a democratic procedure would be followed and that it will remain in the constitutional framework. The mentioning in the beginning of the definition of the conformity of the reform to the principles of social justice may be taken as a sign showing reverence for the social aim. The land reform aims are to provide land or cultivation right to the landless and inadequate-landed farmers, to equip and organize them, thus, establishing a modern and productive agricultural structure. It is understood that while land property is provided for some, others will only receive right to cultivate land. This state of affairs, the ownership of the land by the state with the right only to cultivate given to the farmers, reminds one of the **miri** land concept of the Ottoman legal system and the reform attempts undertaken in some other countries. As the period and conditions of the right to cultivate are unknown it would not be proper to dwell further on the subject.

It is noted that the reform would bring about profound changes in the social and economic life of the farmers and would

maintain these changes. This brings hopes that the reform would not be a superficial and pretentious one but would bring about a true change of order. Thus, in relevance, the reorganization of the land tenure and the right of use regime, the limiting of property rights in agriculture, social and economic responsibilities such as the efficient use of the land by the owner are included in the contents. These provisions, existent also in the previous land reform law drafts, are entirely conforming and proper in view of the realities of the country.

The statement showing the necessity, for the realization of the reform, of a change in the 38th article of the Constitution, concerning real value and the payment in installments of the liabilities of expropriation have been accounted for in the constitutional change executed in the near past.

The second section of the document shows the economic, social and political aims of the land reform and states that these aims would be taken into consideration aggregately and in balance according to the conditions prevailing in each region. These aims, very much like the explanations existent in land reform drafts and their sections on leading reasons are also appropriate.

The third section gives the reform principles. First, the mode of property is considered and it is explicated that various modes may be accepted such as, private individual ownership, state ownership or private collected or aggregated ownership. It is further stated that the priority would be given to private individual ownership, the other modes to be employed wherever necessary. State ownership is a form of land cultivation known in our country for a long time. However, this ownership is used almost invariably for public service and, apart from the special case of forests, the participation of the State in agricultural activities with the sole aim of adding something to the farm output is not usual. The State ownership and enterprising concerning forests are because of the protection, care and development of this national wealth. It is not evident yet, when and in what kind of conditions state ownership is to be used, and whether state ownership would be used, as is wanted, for public services or for pure agricultural production. In later explanation it becomes clear that private properties could be expropriated for cultivation as state farms under public ownership. It has always been beneficial for the general public to have some State economic enterprises such as seed and breed-

ing stock increasing farms, agricultural research and experiment stations, agricultural schools, etc. However, expropriating the whole lands in one region, under whatever pretext, establishing here some state farms in the sense of application of **etatism** in the agricultural sector, and settling down the previous owners of the lands as farm laborers on these farms do never concur with the facts and serve the benefits of the country.

The third form of property rights is brought within a concept of private collected property, which is very uncertain for the time being. If the meaning behind this concept is the appropriation of a land in the form of common property like the traditional use of the pastures, it is possible to say that this primitive order which we want to get rid of, even for the pastures, will only bring harm. Or if, private collected property means cooperative or collective farms, we want to emphasize that this kind of organization does not suit our national structure and traditions and limited experiments of application in that context proved unsuccessful. However, we want to drop the argument at this point, for, it may be quite unjust to express an opinion on that concept of which the real entity is yet uncertain.

The second principle is the rule of operating the land personally. This principle, which took part in the majority of the previous land reform drafts, is useful and convenient. Also, the decisive expression of the principle is worth mentioning.

The maximum limits of the land properties would be determined according to the ecological and economic conditions of the regions and the parts above these limits would be expropriated. Even if we assume that the ecological conditions include the classes of land-use capacities, the issue of whether it is an irrigated or unirrigated cultivation, still is an open question. It is not easy to understand what is meant by economic conditions, but this concept may be accepted as pointing to the population density and non-agricultural economic activities in that region. The above men-

while mentioning the principle that the expropriated land would be cultivated by the owner, the document does not make clear whether a tenancy arrangement is involved or not. The principle that land is to be left to the owners whose land would be expropriated, within the limits of the reform, is not clear in relation to the issue of whether the same or different limits would be applied to ririgated and unirrigated regions.

The principle which states that more rapid payments will be made to those who want to take State bonds in exchange for expropriation liabilities, was existent in the fourth draft in a broader context. It would be more convenient to make quick payments to those who make some specified investments by themselves and who take State bonds.

The rule of distributing land among families within the limits which will be fixed according to the criteria of income and employment, was stated in all drafts since Law No. 4753. But it is desirable that the minimum income level prescribed for the family will also include the sufficient funds to let the family enterprise live and improve in the market economy. It is stated that State-owned and expropriated land would be used in three different ways: to distribute among farmers, to form state farms and to rent to farmers or farmer groups. But there is not any indication about the considerations of the preparers on the ratios of these three different forms, except the statement mentioned above that private properties will have priority. The principle bringing control to the operation of distributed land and to take back those which are not properly cultivated, is a useful principle and it was existent in the previous drafts.

One of the most interesting principles of the reform which is thought to be undertaken, is the one about forming land reform cooperatives and to distribute land only among the farmers who accept to join those cooperatives. To compel the farmers to enter cooperatives, which are traditionally private and voluntary institutions in the free world, is somehow against the concept of cooperation and democratic behavior. Furthermore, as it is inserted that those cooperatives are «new» institutions, it must be alluded that we are before institutions other than the cooperatives about which we already have knowledge. It is also notified that the State will undertake every measurement to help these cooperatives make necessary investments. Necessary investments are probably going to be made on means of production, especially on machinery, land

improvement, irrigation and manufacturing and processing facilities. It is worth it to be curious about the nature of the measures which the State will undertake to secure those investments, for it is obvious that those will not take place voluntarily. In that case, it may be possible to bring some restrictions and economic punishments as well as premiums and supports, which means, at the end, that the State will be using force on individuals. We wish that this prediction will prove wrong and it is not thought to diverge from democratic ways.

One of the principles of the reform is the abolition of share-cropping and to make tenancy an exceptional form of operation. As it was mentioned above, the principle which states that the only way to own land, except for some just excuses, is to cultivate it personally, was adopted. The natural result of this principle, which also took part in the previous drafts, was the consideration of tenancy and sharecropping as an exceptional form of operation. Complete prohibition of sharecropping in this document, will bring some benefits and disadvantages as well as resistances and difficulties of application. The benefits would be the abolition of this primitive way of operation and the elimination of the possibilities for the land owner to exploit and put political pressures on his share-cropper who would be in an economically weak position. The disadvantage would be the privation of the sharecropper from a relatively less risky way of agreement and economic and technical aid which an experienced land-owner can offer. It is a reality that conditions of share-cropping are not the same in different regions of the country and for different crops. Therefore, benefits and disadvantages of this institution widely varies in accordance with different situations. Usually, share-cropping conditions in advanced regions and for labor intensive crops are more convenient. If the State succeeds in helping the share-cropper economically and technically and in improving the conditions of the agreement between land-owner and share-cropper then this institution may become harmless and even can be eliminated.

It was listed among the principles that the rights of tenants would be protected, an order which encourages the inclinations for a more productive cultivation, would be established and the quantity of rent would be in proportion with the quantity of tax. It may be said that the State should protect not only the rights of tenants but also the rights of the owners. On the other hand, to connect land rent with tax is a novelty which did not exist in

the previous drafts, which were dealing with the values of output and land. This measure is also beneficial for supporting tax paying habits.

The principle that farm enterprises would not be divided into fragments of beyond certain magnitudes is stated clearly, decisively and without any time limits, and therefore it is worthy of praise.

The principle about the reformation of the legal provisions regarding the possession and use of meadows and pastures is useful as it was in the previous drafts.

The last section of the document deals with the strategy of land reform. It says that before the advent of the reform act a law about preliminary measures will be legislated. Such a route of action means that in an important issue like land reform the preparer of the draft wants to be very careful. But it must be noted that the land reform will be applied region by region in a long time, therefore to divide the process into further phases may bring the danger of negligence and drag; it is necessary to be careful against this danger.

One of the points brought by the strategy states that simulated transfers of property and actual possession of the use of property after the acceptance of 1961 Constitution will not be valid and there already is a dense argument on this point. If we consider the defect and insufficiency of the registration and cadaster works and the traditional negligence of the people in this regard, we can guess that this point may cause disorder and uneasiness. However, it is a fact that both this provision and the principle of not allowing any change in ownership on lands beyond a certain limit are essential for the execution of a reform. Necessitating the submittance of each citizen statements about lands in their property and actual possession and use, the stopping of all present land distribution, the prevention of registering actually possessed land in the name of the user on the grounds of time elapse according to prescription are all necessary and useful provisions.

It is declared that to prepare for and execute the preliminary measures and the reform itself, an organization affiliated to the Prime Ministry would be established and that this organization would have a group of technical and administrative personnel at the headquarters and committees comprising regional personnel and participating farmers in reform regions. It seems that the affiliation of this organization to the Primeministry was done on

the grounds that reform activities will involve many ministries and thus coordination would arise as a serious problem. However, experiences in many countries, especially in Turkey, have shown that a land reform to bring about large scope changes in the agricultural structure would be most effectively conducted by the Ministry of Agriculture which is responsible for the execution of the entire agricultural policy. For this reason, even in the case of the establishment of a new organization the affiliation of this to the Ministry of Agriculture would be proper in view of both effectiveness and efficiency and the prevention of unnecessary expenditure and duplication. We may point out in this connection that the Ministry of Agriculture is rich in qualified, experienced and well-trained personnel. Joint land-reform committees with farmer members are useful also in enabling the willful participation of the interested people. The trial of such organizations, executed successfully in other countries, would be good.

Modes of rapid judgement and land courts are long advised and executed, useful provisions.

The principle of establishing a new and effective land-agriculture tax system is very useful on the one hand for the liberation of this sector from out-dated and impractical agricultural taxation laws and on the other, to help the financement of the reform and expedite it. The establishment of a Land Reform Education and Research Institute, the preparation of the reform draft until the end of November 1971, the application of some provisions in the entire country and some variously according to regions, the changes in the budgets to enable financement, the speeding up of cartographic and cadastral activities, the accordance with reform aims of the activities of related administrations, and lastly the continuous informing of the public opinion are all useful and well-put measures. It is desired to give credit distribution to the responsibility of cooperatives in reform regions and the reorganization of the agricultural credit system according to the demands of the reform organization. The giving of the powerful weapon, credit, to the disposal of reform cooperatives will strengthen their position and will enable the use of the credits according to reform aims. However, in the execution of this important duty the hundred-year experience and wide organization and personnel of the Agricultural Bank should not be completely neglected.

The absence of any provision regarding land consolidation ought to be considered as a shortcoming of the reform, since the

fragmentation is an important problem as is the division of holdings into uneconomic sizes. Whereas under certain circumstances it is possible to carry out voluntary or compulsory land consolidation programs in accordance with the Soil-and-Water Conservation Act in force, application of this act has necessarily been very limited. In fact, land consolidation is one of the most difficult, most expensive, thankless measures that demand much time, effort and patience. To be successful, it also requires on the part of the farmers to attain a certain level of understanding and maturity. For these reasons, it is not easy to gain good results from this measure and it may rather be applied in the economically more developed countries.

The other two provisions that the document neglected are as follows : (1) The farms that are being operated in an orderly and productive way thus providing a kind of public service and assisting the State in local agricultural development by acting as model enterprises are not treated preferentially; (2) among the probable beneficiaries of the land distribution programs the farm laborers are not included.

B — Draft of Law on the Preliminary Measures for a Land Reform

«Draft of law on the preliminary measures for a land reform», which was foretold in the Program of Erim Government with a single sentence statement such as, «to hinder the families from owning landholdings larger than the prescribed sizes determined in accordance with the local conditions and soil characteristics» and some more details of which were revealed in the subsequently puplished document entitled «The Basic Principles and the Strategy of the Land Reform» was approved and transmitted to the Grand National Assembly by the Council of Ministers at the end of September 1971. In accordance with the suggestion of the Government the Assembly decided to set up a special joint committee and started to discuss it.

The measurements which this 25 articled short draft of law submitted can be summarized in four groups :

(1) Restrictions imposed on agricultural lands, (2) Collection of information regarding to land tenure, (3) Establishment of a land reform organisation, (4) Miscellaneous provisions.

The most important restrictions imposed on land ownership are about the lands which belong to same person or persons and

exceeds a certain size. The upper-limits suggested in the draft are, 600 **dönüms** on unirrigated and 150 **dönüms** on irrigated land. To calculate those limits the real area magnitudes of meadows, pastures and fields are taken as they are and the areas of vine-yards, gardens, orchards, olive-yards, hazel-thickets etc. are multiplied by three. If irrigated and unirrigated land is located together within the same enterprise, then if the irrigated land is a meadow, pasture or a field, four times, or if it is a vine-yard, orchard or a garden 12 times of its area will be added to the real area-magnitude of the unirrigated land. Thus total magnitude of the land owned will be found in terms of unirrigated land. The coefficients to be used for the calculations, which are expressed in rather a complicated manner in the draft, are like this :

On unirrigated meadows, pastures and fields	:	1
On unirrigated vine-yards, orchards, etc.	:	3
On irrigated meadows and fields	:	4
On irrigated vine-yards, orchards, etc.	:	12

The draft states that, on lands which exceed those limits there will be two restrictions; one about the past and the other about the future :

1. Simulated transfers and ownership changes after 20 july 1961, in regard to land reform application will be considered invalid.

2. Those lands cannot be parcelled and shared, the transfers in possession should contain the whole land and should be made to the same person or persons. In other words the owner cannot make any ownership changes on the different pieces of his land.

The second group of lands on which some restrictions are imposed are the lands distributed within the context of the Law for Providing Land to the Farmers and the laws alike. The draft states that these lands will not be transferred or subjected to any title change.

Another restriction comprises all the agricultural lands. It states that the principle of possession of property by the actual user on the grounds of time elapse according to prescription would not work on agricultural lands.

While Governmental Program states that a preliminary measures law, which, «prevents a family to own lands exceeding the

fixed limits» will be legislated, the above mentioned draft-bill does not follow such an objective. Even after the law promulgated one can possess land bigger than the fixed proportions. The preliminary measures draft follows an opposite aim from the one which is stated in the program; it prevents the division of the middle and big lands and even considers some divisions which took place in the last ten years, invalid.

Essentially on the days which followed the May 27 Revolution when the issue of land reform was brought into argument and when some big land-owners were forced to leave their properties, many people tried to search the ways to divide their lands into smaller units. Such an attempt also took place in 1945 when the first land reform law in Turkey, Law for Providing Land to the Farmers, legislated.

We want to leave the jurisprudential arguments such as, extending over the provisions of the draft on the operations of transfers which took place in the preceding years or will the time limit of the extending over should start before or after the acceptance date of the constitution and which operations should be considered simulated, to the experts. We have to mention that, the dimensions, considered as upper limits in the draft will not be the upper-limits of the maximum magnitude of land which will be left to the owner by the land reform law going to be legislated, i.e. those upper-limits can be over or under the limits which took place in the draft for preliminary measures. But this draft, while preventing the division of the lands bigger than the stated limits, does not bring any such restrictions for the lands under those limits, therefore, the division of those lands, especially the ones whose dimensions are about the limits, will continue. Considering this, it can be said that the upper-limits for expropriation will remain within the limits of the draft. This point should be kept under attention and if the issue of increasing the limits would be put forward at the Assembly, it should be considered.

Fixation of upper-limits for expropriation is the most important side of the land reform and even today there are severe arguments on the limits of the preliminary measures. Those arguments and bargaining at the National Assembly will continue and probably will be the most vital factor which will delay the draft to be legislated as a law. However, the main subject to be discussed has to be the upper-limits which would take place in the reform law; and it is clear that while fixing those limits one has to be very

careful and consider the realities of the country as well as the economic, social and political criteria.

The matter of limiting private property in agricultural lands finds its juridical foundations in the Constitution. But the same clause of the Constitution states that different limits should be considered for «different agricultural regions and methods». The above mentioned draft uses the same measurements of limitation for all regions. We wish that this principle which didn't take place in the draft for practical reasons should be considered in the reform bill.

The coefficients used to change the land units into the same terms are completely technical issues. But there also are some errors in these coefficients. For example, those coefficients should be different for different agricultural regions. Therefore it is also necessary to consider them again at the time of the preparation of the reform bill.

The restriction imposed on the big lands and to the lands distributed by law are usefull and necessary. It is also convenient to close the way of possessing lands by prescription, which is rather a primitive method. But it should be taken into account that this method was used widely in the past and many people possessed State owned lands which should be used as a potential reserve for distribution. Because of the present juridical order, it was not possible for the Preliminary Measures Draft to consider those operations and count, at least some of them invalid. But, in the view of land reform the matter of possessing of State lands in a way or another, is not a less important subject than the division of large private properties.

The second group of measures brought by the Draft deals with the declarations which will be given by the land-owners and landless. Those who own or use as squatters the agricultural lands larger than five **dönüms** have to give information about the kinds of their lands, their real magnitude, the manner of their organisation and usage, in given time-limits. In the second part of the declaration which is optional, farmers may give information about the needs for farm machines, instruments, livestock, credit, and the like, which are essential to operate the land productively. Also, another clause states that landless or inadeqnate-land-owning farmers who want to benefit from land distribution will notify those wishes.

If this operation can be fulfilled among the four million peasant families spread all over the country, very valuable information can be obtained. Within the context of many field surveys and censuses which took place until today, sufficient information couldn't be collected about the conditions of land tenure and usage. Such information was collected by asking questions to the farmers or by getting some figures from the **Muhtars** or agricultural technicians and their rate of error was very high. Furthermore statistics about land was prepared, usually, in terms of agricultural enterprise which is an economic unit and therefore it became impossible to determine juridical concepts like proprietorship or squatting.

The draft proposes to collect information by forcing the possessors and squatters and to give punishments to those who neglect or give wrong information and we thing that this is a usefull measure to undertake.

We can assert that the declarations about the needs for farm machines, livestock, credit and the like will be exagerated: it is not easy to collect sufficient and consequent information from those who don't exactly know what they need or cannot express them. Furthermore, this will raise superfluous expectations among the little farmers, for, that kind of information collecting can be understood as a promise given by the State. On the other hand, to ask about their needs to middle and big land-owners whose lands could be subject to expropriation, is like ridiculing them. It is clear that the State, with its limited possibilities, have to realise the reform, before it deals with the needs of the land-owners. Today it is impossible to defend the idea, «all the means of the state should be used to raise the productivity of middle and big enterprises», which took place in all the agricultural reform draft bills prepared in the last five years.

The Draft proposes to form an office connected to the Prime Ministry and to secure the possibility of using the needed personnel of all State Organisations in that office. It is understood that this office is connected to the Prime ministry for the sake of coordination among various Ministries.

It is clear that Land reform will involve juridical, technological, economic and administrative actions. But the foundation and aim of the reform is to fulfill a radical change which will raise the productivity and efficiency and at the same time will help for social justice in the agricultural sector.

We believe that, Ministry of Agriculture, which has a wide and sufficient organisation and which is responsible for the overall agricultural policy of Turkey, can carry through and sustain such a reform. Even if it is considered necessary to form a new office, this should be tied to the Ministry of Agriculture; in this way, speed, efficiency, saving of material and human resources, can be secured and unnecesary duplications can be skipped. The experiences of Turkey and many other countries support this view.

Some miscellaneous provisions of the draft are important and it is necessary to deal with them briefly. The definition of Agricultural land which is stated in the second article is complicated and incomplete. This definition failed to form proper connections between the concepts of land used and land can be used for agriculture and between methods and products. To depend on cadastral surveys to find out the land areas is not convenient for, those registrations are usually false and incomplete. It is a deficiency that the travelling Agricultural Court, which was existent in the document, Principles and Strategy and was usefully used in the past, did not take place in the Draft. And lastly, it would be more convenient, if the draft used **dönüm** for the measurement unit instead of decar, for, Law for Providing Land to Farmers, which still is in effect, uses it.

C — Draft of Law on Land and Agricultural Reform Prepared by Bahri Dağdaş, Representative from Konya

While the government was getting ready to transmit the draft of law on the preliminary measures to the Parliament, Representative from Konya Bahri Dağdaş presented his draft entitled «Draft of Law on Land and Agricultural Reform» to the Grand National Assembly on 23 September, 1971. This draft which was described in the letter of transmittal as being «a draft of law that considers the structural, economic, social and cultural topics of the agricultural sector as a whole ... that endures the time, the developing technological and economic possibilities, and that covers all the basic measures», was essentially the same as «The Draft of Law on Agricultural Reform», which was prepared while the same person was holding the post of Minister of Agriculture, and which was analyzed above in details. The leading reasoning, the sections and the articles have not been changed at all. Only changes made are the addition of the word «land» to the title, the substitution of the expression «ordering registered lands» instead of the term

«consolidation», the extension of the period of installments regarding the expropriation indemnity payments up to 20 years, and some minor expressional modifications.

IV — Conclusion

All these explanations and analysis show us that for the last eleven years there has been many efforts and activities on the subject of land reform. The same explanations have shown that all these efforts and pains have not been in vain that they have produced useful results. In fact, during this period many principles related to the land reform concept and scope have been crystalized and public opinion enlightened, the country's problems and needs were visualized and were widely discussed throughout the country. It is a fact that all these efforts caused discontent and uneasiness in certain circles and that some big landowners who thought that the reform would be detrimental to them, in order to escape from it, divided up their enterprises between their relatives or sold them and that the ownership situation of lands owned by the State but under occupation by farmers without title deeds was strengthened. On the other hand, during this rather long period well grounded knowledge about ownership and possession rights of agricultural lands could have been collected and that the problem of title registration and cadastral mapping could have been solved by speeding up of activities; unfortunately, these were not done. In the meantime, valuable drafts were prepared. One of these, the Fourth Land Reform Draft, which had reached the Grand National Assembly, is a perfect achievement which could be used today with few alterations and additions.

It would be proper to make use of these past activities in order not to make mistakes in the future, to gain time and to economize in human and material resources. The last Land Reform Principles and Strategy document which has been prepared is pleasing for it shows that the present activities are in this direction.

It is certain that the antipathy created by the land reform in the past, the strong resistance against these activities of certain circles and organized groups and the negligence of government departments have now completely stopped. Even the farmers' organizations, known as the most conservative group, have accepted

the need and benefit of a land reform, but, now concern for the preparation of a land reform draft suited to the country's realities, participating with their efforts in this direction. The political atmosphere is more than ever suitable for the land reform. It can be asserted that the chance of accomplishment of the land reform has never been as near and as tangible as it is today. Now the only thing to do is to reap the fruits of past efforts in the shortest possible time and realize a reform useful for our country and nation.