

All are suspects of corruption: Layman is in prison, Officials are free

By Mehmet Gün / 12 December 2022, Monday / Published In Politics



Turkish notorious mob-leader **Sedat Peker** claimed in August that former Capital Markets Board (SPK) head Ali Fuat Taşkesenlioğlu, AKP lawmaker Zehra Taşkesenlioğlu, and her former husband Ünsal Ban involved in corruption, extortion and bribery. While Ban has been taken into custody, Taşkesenlioğlu, who should be main perpetrator is out. Why?

Ruling Justice and Development Party (AKP) lawmaker Zehra Taşkesenlioğlu's exclamations in the hidden video recording where she said "You are destroying me so that you can make money"; the statements of aggrieved businessperson Mine Sineren; the arrest of Ünsal Ban, whose driver was caught burning documents while he was preparing to flee abroad... These are extremely strong indications that **notorious** mob-leader **Sedat Peker's accusations** of extortion and bribery against former Capital Markets Board ("CMB") chair Ali Fuat Taşkesenlioğlu and his brother-in-law Ünsal Ban will be justified.

However, Ünsal Ban, who is an accessory to the commission of the crime, is in jail, while Ali Fuat Taşkesenlioğlu, who should be suspected of being the main perpetrator, is out.

Something is off, isn't it?

The fact that this way of operating has become a systematic and taken-for-granted part of the culture is a serious social concern.

This issue, which corrodes societies from within and leads states to collapse, has been gnawing at the Turkish-Islamic world since the 13th century, when the state and its officials became distributors of economic interests, deciding the amount of money an individual would earn.

Ünsal Ban, İsmail Özdağlar, Özal's civil servant

Fuzuli's lines "I saluted, they didn't take it because it wasn't a bribe!" are proof of how widespread and commonplace bribery and corruption were in the Ottoman Empire, and the late Turgut Özal's comment "My civil servant knows his job!" is proof that it continued in the Republican era. In the Civangate case, Engin Civan, the general manager of Emlak Bank, who was on trial for taking a bribe of 3.5 million dollars, was asked "Do you have a document?" and Selim Edes, the businessman who gave the bribe, said, "There is no document for a bribe, you b....rd!" Tuncay Mataracı, minister of customs and monopolies in 1982, and İsmail Özdağlar, minister of state in 1985, were convicted by the Supreme Court for taking bribes and abusing their office. A former president of the Istanbul Chamber of Commerce and a member of the Court of Cassation, who

were found to be corrupt in Case No. 2011/1, narrowly escaped conviction on the grounds that evidence detected during another investigation was illegally obtained.

Turkey ranks 37th out of 38 member countries in the OECD's corruption index and 96th out of 180 countries in Transparency International's Corruption Perceptions Index, indicating that there is a lot of immorality going on away from the public eye and that corruption must have already be extensive.

The Law of Not Fighting Corruption

In Turkey, there exists Law No. 3628 on Declaration of Property, Anti-Bribery and Anti-Corruption. However, this law, which supposedly prevents corruption, in reality serves to hide it. The articles of the law seem to have been written by a hidden hand to facilitate corruption by politicians and high-level bureaucrats and to prevent it from being uncovered.

Civil servants are required to declare their assets, but they do so to their own institutions and colleagues, not to an independent and trusted institution. Property declarations have to be kept in private files and cannot be disclosed in any way. These declarations cannot be given to anyone other than the Public Ethics Board or judicial institutions conducting investigations. In other words, even if public officials increase their own assets by committing crimes, no one will know about it unless an prosecution is initiated against them. Moreover, is it not naive to expect that "competent" civil servants will increase their assets through extortion, bribery and other corrupt practices, and then throw the evidence out in the open?

Article 17: De facto immunity

Even more interestingly, Article 17 of the law states that in the investigation of "corruption" crimes, Law No. 4483, i.e., the condition that the administrative authority must give permission for an investigation, does not apply. But the second paragraph that follows states: "this article does not apply to undersecretaries, governors and district governors." The next paragraph states that it will not apply to members of institutions subject to special investigation and prosecution procedures, such as the CMB, the Competition Authority or the Banking Regulation and Supervision Agency (BDDK), where large economic benefits are distributed by the state and where civil servants would like to be able to throw bones to one another. All of these laws providing for special investigative procedures have a parallel provision granting de facto immunity to the heads of institutions: In order to investigate the crimes of these officials, the relevant minister must authorize a prosecution, and in order to authorize a prosecution, there must be almost conclusive evidence of the crime committed. In other words, even if the minister wants to authorize an investigation, if there is insufficient evidence the authorization will be canceled. On the other hand, the defense of these civil servants will be undertaken by their institutions, which will pay a lawyer's fee at 15 times the minimum tariff from the institution's coffers.

Constitutional grounds for corruption

Article 129 of the Constitution has been written in such a way that you would think that someone had diligently designed this situation on purpose: The article states that criminal prosecution for crimes committed by civil servants is subject to the permission of the administrative authority, with exceptions specified by law. In other words, let the politicians decide for themselves how they can make civil servants their captives. As a matter of fact, politicians have amended Law No. 3628 in such a way that those in power decide whether or not civil servants who commit crimes will be brought to justice.

The system is set up in such a way that politicians in power are at the taps of the economy, can turn them on and off as they please, and can arbitrarily distribute public resources. The heads of all the key institutions of the state are under the orders of politicians, constrained by their words. Politicians can get bureaucrats to do whatever they want, using them as pawns without putting their own hands in the fire. If we apply the law of pessimism by stating that "the worst happens," it is more than likely that the state organization will be thoroughly corrupt, and key public institutions and tens of thousands of public servants may have been buried in corruption without the authorities' knowledge. Even if administrators are honest and moral, they cannot control the bureaucracy and make others behave honestly.

The nation and the economy suffer

Turkey's regression in the Corruption Perceptions Index is the natural consequence of its regression in judicial independence and the rule of law. This is the main reason why Turkey's economy, which was ranked 16th in the world a few years ago, fell to 21st in 2021. In an environment conducive to corruption, a relatively small group of people with invisible interests and clandestine relations can tighten the noose around the throat of the entire country.

Corruption is a lethal social disease, often led by politicians, that prevents countries from developing and moving forward. This is why one of the development goals of the United Nations Development Programme (UNDP) is the prevention of corruption.

Corruption is one of the main reasons why Turkey has not been able to overcome the "middle democracy" and "middle income" levels. Invisible obstacles are placed in the way of the rule of law, the independence of the judiciary and advanced democracy by a small group of people who act in concert with each other to gain illegal benefits while monopolizing the decision-making positions in the country.

The reason why Ünsal Ban is in prison while others are free is that the judiciary freely investigates and arrests those who are not public servants, while those who must wait with their hands tied for permission from their administrative superiors, the politicians.