

A Brief Study on the Amnesty Decrees Issued by the Assad Regime

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The Assad regime is very interested to frequently issue amnesty decrees for perpetrators, and all of these decrees are characterized by the selectivity of the crimes covered by them, and by restricting these decrees by exceptions that limit their application, subjecting them to politicization, and they were left to the judiciary, which mostly obeys the dictates of the security authority;

We have counted nine legislative decrees under the title of general amnesty issued since 2011, the last of which is Decree No. 6 of 2020 issued on March 22;

There are ten reasons for which the Assad regime issued amnesty decrees, for which, in items 1 and 2, two direct reasons were indicated that prompted Assad to expedite the issuance of the last decree;

Direct and indirect reasons:

1. The response - with fraud - to the attention of the international and local communities regarding opposition messages that warn against the regime's neglect of the Corona virus outbreak in prisons, and to the opposition's concerns that the regime may use the virus to justify the extermination of detainees. In this respect, the regime intentionally amended the text of the previous decree no. 6 of 2019 to a new text in the last decree that does not refer to the age of the pardoned detainees who suffer from incurable illnesses.
2. After Sending a message to the international community in order to address the refugee crisis, especially following the recent waves of influx into Greece towards Europe, the regime attempts to show that it could play a role in this crisis;
3. Pressing on refugees and intimidating them of the possibility of repatriation, in order to limit their freedom of expressing their views outside its territories;
4. Using amnesties to claim that it provides secure environment necessary for elections and to support reconstruction before reaching a political transition;
5. Selecting specific convicts to pardon them;
6. Selecting specific criminal offenses to release their perpetrators;
7. Selecting desertion cases to include supporters fleeing - normally – due to reasons related to the length of military service, its difficulties and

- risks, and excluding dissidents for political, ethical, functional and national reasons and situations;
8. The mobilization of armed units of the regime by returning fugitives and subjecting the convicts to military recruitment and reserve within the specified long age;
 9. Making money for the treasury of the regime from court fees and amounts owed; and collecting private funds for the regime's supporters as a result of brokering and bribery, which it is customary to provide the necessary incomes for them, in order to alleviate their discontentment with the regime about the poor living conditions that its supporters have.
 10. Using amnesty as a tactic in the psychological warfare, by sending false political messages to its supporters and opponents, and it carries the following aspects:
 - Showing (falsely) that it is a legitimate authority.
 - Showing (falsely) that it won the war and it is the victor that pardons the vanquished,
 - Showing (falsely) that it has enough morals to pardon others;
 - Showing (falsely) that it carries the logic and philosophy of a state in caring for its people and treating their situation wisely.

While we follow a very limited number of released opponents, and despite the importance of rescuing them, the regime keeps more than a quarter of a million Syrian people under arbitrary detention or enforced disappearance, using the release of only dozens of detainees to shuffle cards;

Legal analysis of texts:

Similar articles are similar in the texts of the legislative decrees of the general amnesty issued by Bashar al-Assad, and the analysis leads us to conclude the effects and purposes, distributed in three groups, I am going to explain them below to identify the crimes covered by the amnesty, and the acts not covered by it:

First, crimes stipulated in the Anti-Terrorism Law No. 19 of 2012:

In its Article 5, the last amnesty decree includes the full penalty for the crimes stipulated in four articles of the anti-terrorism law; Article 2 if the perpetrator is Syrian, Article 7 paragraph 2, Article 8 and Article 10 of Law No. 19 of 2012, deliberately selecting four cases, leaving the rest out of the amnesty, in a way that allows the judge to characterize the offense in harmony with security

dictates, using the explanation of rulings as his broad discretionary power, which is not consistent with the reality of the weakness or lack of independence of the judiciary in Syria.

In view of the definitions contained in Article 1 of the Terrorist Law for both the terrorist act, the terrorist organization and financing, we note that the regime targets the opposition through drafting texts by legislators in a specific manner;

The amnesty does not extend to those convicted, arrested and prosecuted, according to the rest of the articles of the anti-terrorism law, for example:

Article 3 whereby peaceful and political activists are charged with working to change the regime through a terrorist organization,

Law 19 of 2012 defines a terrorist organization in terms of the terrorist act, defined in Article 1 thereof, with the aim of creating a state of panic among people, disturbing public security or harming the infrastructure of the state, by using any tool that performs this purpose, and not only by using weapons.

- Article 4 is based on freezing and seizing the funds of many opponents,
- Article 6 puts the political statements in support of legitimate self-defense, in the context of threatening of a terrorist act punishable by hard labor,
- Article 8, which criminalizes the promotion of terrorist acts - widely defined - by distributing publications or information, including social media; is exempt from the amnesty stipulated in Decree No. 20 of 2019, and included in the last decree of amnesty no. 6. This refers to few number of the convicts for whom the legislator drafted the text, as usual from the reality of the mechanism of work of the regime's institutions. Many prisoners of conscience, peaceful activists, human rights defenders, paramedics, medical workers and media workers are referred to the judiciary in accordance with these articles not covered by amnesty decrees. This confirms the conclusion that amnesty decree has been issued for media and political ends, and that its provisions are applied selectively and very limitedly.

Second, internal and external desertion crimes:

The decree includes, in its provisions, an amnesty for perpetrators of crimes of internal and external desertion, which are stipulated in Articles 100 and 101 of the Military Penal Code promulgated by Legislative Decree 61 of 1950, excluding the cases of desertion stipulated in Articles 102 and 103 of the Military Penal Code by which the regime considers those who joined the

opposition as fugitives, and tried them on this basis, considering that by their escape they had joined the enemy or that their escape had occurred as a result of a conspiracy.

In order to benefit from the provisions of the amnesty decrees, there should be no personal allegation or complaint, so that the door remains open for the regime to prosecute those who are covered by the amnesty - again - by inciting one of its supporters to submit a complaint against any of the individuals to extort, subjugate, or revenge against them. We have observed similar cases, in the regime's behavior in the reconciliation areas, against those covered by the settlement.

In order to benefit from the amnesty; fugitives must surrender themselves within 3 months for internal desertion and within 6 months for external desertion.

The amnesty decree includes only one group, namely the deserters who did not participate in the work of the opposition or the revolution.

The regime aims to regularize the status of this group to use them again, and it also aims to regularize the status of some of its agents sent by it to the opposition after their mission finish.

Third, crimes of criminal nature:

The amnesty decree, like the previous one, covers criminal crimes, some of which are explained below:

1. Kidnapping, stipulated in Article 1 of Legislative Decree No. 20 of 2013, and the perpetrator of this crime is exempt from the full penalty, in the event that the kidnapper cooperates with the authority. The text serves in its effects, the thugs and the gangs close to the regime, sometimes out of its control, and with the purpose of returning them to obedience;
2. Smuggling crimes stipulated in Legislative Decree No. 13 of 1974, included in the amnesty for the full penalty depriving of liberty, in the event of payment of fines to customs, and aims to achieve financial revenues for its institutions that are economically collapsed, as well as to serve cigarettes smugglers associated with it;
3. Drug abuse and crimes under temporary criminal penalties in the Syrian Drug Law No. 2 of 1993 are included in the amnesty;
4. A number of crimes stipulated in the Penal Code No. 148 of 1949 such as bribery, forgery, giving the employee false information, destroying, burning or taking public documents, records or deeds, imitating or using

forged seals, writing false matters in state records, and handing over false documents to others, and harming a person, it is with all the foregoing included in the amnesty, the thing which raises more concern about the regime's violation of housing and property rights, and about protecting the means and people involved in these crimes.

5. The crimes covered by Decree 54 of 2013 to prevent dealings other than the Syrian pound, amnesty does not include confiscation, and fines are to be paid to the Central Bank of Syria; fines amount to twice the value of payments or goods, and with expropriations of all amounts and goods traded, the regime intended to include these crimes in amnesty for economic purposes.
6. Weakening national sentiment, stirring sectarian strife, disobedience, conspiracy, and affiliation with all groups aiming to change the state's entity, stipulated in the Syrian Penal Code, included in the amnesty, while noting that those accused of these acts should be referred to the judiciary according to the exceptional laws issued after 2011 such as the terrorism law. In other words, the suit is adapted on the basis of the articles of these laws, and as mentioned above, they are not included in the amnesty decrees. Thus, the text of these articles is stipulated in the decree as an attempt to pull the wool over the people's eyes.

More cases excluded from the amnesty:

Although amnesty decrees specify the articles covered by its provisions, and despite the fact that all the articles that the decree did not provide for amnesty, are considered in terms of practice and law outside the amnesty, the regime lawmakers rely on drafting the text to exclude a number of cases - often for political ends - according to the following:

1. Personal harm, and, in this respect, we note two things:
 - Failure to pay compensation shall not be deemed a forfeiture of the personal right, contradicting this with the priori that it is necessary to pay the compensation to the aggrieved party's knowledge,
 - Allow the submission of a personal claim (later for consideration of the suit and later for making verdict) within sixty days from the date of the enforcement of the decree, contrary to the rules,

The article was drafted in a way that allows the security authorities to offer the thugs more power to dominate and interfere in the fate of the detainees, and in a way that justifies the continued detention in the areas of settlements subject to understandings with Russia;

2. Disappeared persons are not covered by the amnesty unless they surrender themselves to the authorities, with the aim of cutting off the path and opportunities for the return of the displaced refugees and refugees, and to complete the policies of the regime by re-engineering the society and getting rid of germs, as Bashar Al-Assad and his followers always say;
3. In a clear political message directed to the international community, the regime reminds of the papers of terrorism in its hands, reiterating in the issued decrees stipulating that non-Syrians are excluded from amnesty;
4. Two packages of selected crimes, stipulated in the penal code, that the regime excludes them from the provisions of amnesty trying in vain to link the sanctity of the first package to it, and the inferiority of the second package in assessing society:
 - The first package includes defamation or insulting the head of state or the army or its institutions, the employee's obstruction of law enforcement, or his failure to collect fees, not obeying the direct orders of the president, and continuing the job after the dismissal. Its effects shall be attributed to service employees in areas outside its control - as well as the wearing of uniforms or state badges without a right or foreign badge, and prevention of civil rights.
 - The second package includes incest crimes, coercion and homosexuality or sexual abuse of a minor.

5- In addition, of course, to the exclusion of detainees and wanted opponents, as indicated above - in the first and second paragraphs in the legal circumvention of the texts.

Implications:

1. In practical terms, the amnesty will be applied to a specified number of supporters of the regime and perpetrators, and to those who have reconciled through his diplomatic missions to the regime in the countries of asylum, and in areas of its control - after ensuring their political loyalty or security recruitment, and to a very limited number of opposition detainees to pull wool over people's eyes and shuffle cards in a failed attempt by the regime to deny its involvement in the crimes of arbitrary detention, enforced disappearance, torture, liquidation, and extrajudicial executions, with the aim of impunity for the Assad regime.
2. The amnesty will not be applied to the millions of internally displaced persons and refugees who have been forcibly displaced by the regime in

a deliberate and widespread policy, and will not include measures of seizure or confiscation.

3. Russia is making use of amnesty decrees to revive its efforts in its reconstruction projects, refugees, and to restore some countries' relations with the regime and reconstruction.
4. Amnesty is exploited by racist governments in asylum countries such as Lebanon, and by parties and personalities opposed to government policies, in a number of countries that are committed to the Geneva Refugee Convention, and by justifying the mistreatment of Syrian refugees and preparing to forcibly return them, on the pretext of absence of danger in their country.
5. Amnesty decree places the opposition in challenges to confront the above politically, medially and legally.

Without a real pressure by the international community, allowing the access of international observers to secret and public detention centers, the regime will continue to be in a fraudulent way to mix paperwork, just as it continues to commit its crimes; the thing which confirms that ending the suffering of the Syrian people requires a realistic view to achieve a political transition;

Finally, I would like to pointed out that the acceptance of the principle of amnesty is an admission of the commission of a crime, and this is inconsistent with the philosophy and requirements of justice, which calls for settling the conditions of dissidents and opponents to cancel the rulings issued against them and to nullify all their effects;

The Syrians, by their instinct or experience, realize this rule, and with their lack of confidence in the regime and their refusal to return to its arms, we note that the overwhelming majority of them do not give attention to this pardon, so much that none of them asked - just a question in his mind - if the amnesty decree included him or not.

Justice is inevitably coming, with fairness to the victims and the accountability for those involved in the crimes of genocide. We will see soon who has the right to pardon, and who will be tried for war crimes and crimes against humanity.