

## **Analysis of Amnesty Law Enacted by Legislative Decree No. 13 of 2021**

### **Introduction:**

Most countries in the world acknowledge the principle of general amnesty as complementary to a state's criminalization and punishment policy. It is usually a tool in the hands of Parliament used in very special and specific cases, with the aim of healing a societal rift or addressing the effects of an earlier stage; amnesty for minor crimes is an opportunity to help society recover, and to turn a new leaf from a past that may have witnessed unrest or conflict.

It can also be issued in special cases such as outbreaks of epidemics to reduce overcrowding in prisons, when amnesty is granted for minor crimes; or it may be granted to a specific group of prisoners of conscience, to reflect a new stage in the country towards democracy. General amnesty does not at all mean reduced punishment for common criminals.

In Syria, however, the situation has been completely different. General amnesty is a tool used by the Syrian regime to pardon criminals, especially from groups in its circle; most provisions of amnesty laws cover smuggling, drugs and crimes involving currency, or they are issued for specific political reasons, while excluding a number of crimes the regime accuses its opponents of. Perhaps the most prominent example of how the regime uses amnesty laws to protect itself is it issuing three amnesty laws at the beginning of the revolution in 2011, granted to many of its Shabiha as well as to those who displayed extremist tendencies, released to distort the image of the revolution, many of whom found their way among leaders of ISIS, Al-Nusra, PYD and others.

This paper reviews the legal framework for amnesty law in Syria and its impact on prisoners of conscience and political detainees in Syria and devotes a special chapter to explain in detail the clauses of Amnesty Law No. 13 of 2021.

### **Legal Framework for Amnesty Law:**

The Syrian Constitution of 2012 stipulates in its Article 75 the jurisdiction of the People's Assembly and its functions, including the approval of a general amnesty. Despite this constitutional text, this pardon, like its predecessors, was issued through the Head of State in his legislative capacity, pursuant to the exception contained in Article 113 of the Constitution, which grants him legislative authority in special cases.

As in all cases of amnesty laws issued in Syria under both Assads, it was never issued through the authority of the People's Assembly, but always in the form of a legislative decree by the President of the Republic. Note that the Constitution gives the President of the Republic the power to issue special, not general, amnesty.

Reviewing amnesty laws issued since Bashar al-Assad assumed power in Syria, we find they were issued as follows:

Legislative Decree No. 17 of 2000 (after assuming presidency)

Legislative Decree No. 38 of 2002

Legislative Decree No. 22 of 2003

Legislative Decree No. 41 of 2004

Legislative Decree No. 58 of 2006

Legislative Decree No. 56 of 2007

Legislative Decree No. 22 of 2010

Legislative Decree No. 34 dated 7/3/2011.

Legislative Decree No. 61 dated 31/5/2011.

Legislative Decree No. 72 dated 20/6/2011, covering entire sentences for particular crimes, namely smuggling and drugs, but not for other crimes.

Legislative Decree No. 124 of 2011, specific to desertion crimes.

Legislative Decree No. 10 of 2012

Legislative Decree No. 71 of 2012

Legislative Decree No. 23 dated 17/4/2013

Legislative Decree No. Date 70 dated 30/10/2013, specific to desertion crimes.

Legislative Decree No. 22 of 2014, released two weeks after his election.

Legislative Decree No. 4 of 2015, specific to smuggling crimes.

Legislative Decree No. 32 of 2015, specific to desertion crimes.

Legislative Decree No. 8 of 2016, specific to desertion crimes.

Legislative Decree No. 15 of 2016, specific to those who took up arms then gave themselves up within a specified period.

Legislative Decree No. 18 of 2018, specific to desertion crimes.



Legislative Decree No. 20 of 2019

Legislative Decree No. 6 of 2020

Legislative Decree No. 1 of 2021, specific to forgery crimes related to those assigned to military service.

Finally, Legislative Decree No. 13 of 2021, the subject of this paper.

We find that the amnesty laws were all issued in the form of a legislative decree, meaning they were issued in the exceptional capacity of the President of the Republic to legislate; not once were they issued by the authority competent to issue amnesty law, which is the People's Assembly.

On the other hand, we notice the frequency of amnesty laws is a rate of about once a year, and this indicates that the amnesty laws were not used for their normal function, but rather to pardon and reduce penalties for criminals. This behavior can only be explained as sympathy on the part of the president with a certain social group he views as close to him.

As for details of the amnesty laws: most of them come in a similar form, to cover entire sentences for misdemeanors, with some exceptions; or to cover a third or half of the sentence for criminal offenses, with some exceptions. We also note that amnesty granted to cover entire sentences are generally for drug use, smuggling and money laundering offenses.

### **The Effect of Amnesty Law on Prisoners of Conscience:**

This amnesty law, like its predecessors, included most misdemeanors, and half the imprisonment term for most felonies. As usual, the amnesty covered the entire sentence for crimes of smuggling, dealing in foreign currency, drug abuse and possession for personal use.

Perhaps the most notable change in the policy of amnesty laws is that it always excluded crimes under the prostitution law; however, this one did not, and such crimes were therefore included in the amnesty.

As for prisoners of conscience and opposition members: this law, like those before it, included some items from the penal code and some from counter-terrorism law, but did not include many of the sentences usually handed to opposition members; therefore, anyone who did not benefit from the previous amnesty would not be included in this one.

It is customary to attribute to opposition members a number of crimes, including weakness the nation's morale, contact with the enemy, terrorism and others. Thus, their file is restricted by a number of articles that this type of amnesty law cannot cover. As a result, amnesty



releases many criminals, especially drug users and smugglers, while keeping prisoners of conscience imprisoned.

From counter-terrorism law, issued in 2012 as a tool to silence and punish opponents, two articles and two paragraphs were included in the amnesty, which excluded articles on terrorist action, as it is generally recognized that any opponent of the regime is considered a terrorist. To quote Human Rights Watch in its comment on the Counter-Terrorism Law, “This law opens the door to affixing a terrorist label to almost any act.” This comment is taken from HRW report entitled “Syria, Use of the Counter-Terrorism Court to Stifle Opposition”, issued in 2005.

The penal code includes several articles that affect opposition members, and so the amnesty gave the false perception that it included opponents of the regime, but this was not the truth. Take, for example, Article 293 of the Penal Code, which states:

“1. Every act committed with the intent to incite armed disobedience against authorities established under the Constitution is punishable with a term of imprisonment.

2. If disobedience breaks out, the inciter shall be punished with life imprisonment, and all other disobedient persons shall be punished with imprisonment terms of at least five years.”

The amnesty law covered the first paragraph of this article but did not cover the second. And since, in the regime’s view, disobedience has occurred, therefore amnesty for the first paragraph means nothing, and the second paragraph suffices to prosecute everyone who opposes the regime.

For example, let us consider the story of a detainee, Tal al-Mallohi, a Syrian girl who was arrested in 2009 when she was 18 years old, because of a blog where she talked about matters the regime saw as crossing red lines. She was charged with communicating with US intelligence, and although the sentence she received was for five years, and despite several amnesty laws since issued, she is still behind bars. Meanwhile, hundreds of criminals were let go under amnesty law. We also remember the story of Ragheed al-Tatari, who has been in Assad's prisons for more than forty years. Although dozens of amnesty laws that cover him have been issued, he is still in Syrian prisons. On the other hand, the only persons who can benefit from amnesty are persons the regime recognizes as being in its prisons in the first place, and who have been duly referred to the judiciary. As for those arbitrarily detained, forcibly disappeared, and missing in security basements and secret prisons, these cannot be covered by amnesty law, and the regime still refuses to declare their fate.



The Syrian regime is still ignoring reality and the changes that have occurred over the past ten years. And many Syrians still see that laws are just tools the regime uses to consolidate its grip, including one issued before presidential elections as propaganda directed at supporters, since the only project it has is to pardon criminals.

Many Syrians also denounce the idea of amnesty coming from someone they count as the most guilty of crimes against the Syrian people, and who himself should be asking for pardon, not granting them.

Finally, general amnesty should be a step within several towards building peace after a political agreement, and may include amnesty for minor crimes, to relieve overcrowding in prisons and prepare them for major violators and perpetrators of war crimes and crimes against humanity not covered by the amnesty and the statute of limitations.

### **Detailed Explanation of Amnesty Law No. 13 of 2021:**

In order to explain articles of the amnesty law, and the extent of the crimes it covers, we provide a complete legal analysis of all its articles.

#### **Article 1**

**A general amnesty is granted for crimes committed before 2/5/2021.**

This means a condition for benefiting of the amnesty law is that the offense occurred before this date, whether or not prosecution had taken place.

#### **Article 2**

**Amnesty for entire sentences**

- 1. Covers entire sentences for misdemeanors and contraventions.**
- 2. Covers all measures of rehabilitation and care for juveniles.**

This means the amnesty covers the entire sentence for violations such as traffic offenses and others, as well as for misdemeanors apart from those mentioned below as exceptions to the amnesty law. Consequently, every misdemeanor not counted as an exception is covered by the amnesty. The amnesty also includes entire sentences for measures taken against juvenile delinquents.

#### **Article 3**

**For entire life sentences or terms of imprisonment for those afflicted with incurable diseases and in need of assistance to meet their personal needs.**



This article grants amnesty for the entire sentence, regardless of the crime, with two conditions:

Subject has an incurable disease, and this disease hinders him from fulfilling his personal needs, and he must seek the help of others.

Individuals covered by the provisions of this article are determined by a special medical committee.

#### **Article 4**

**For entire life sentences or terms of imprisonment by virtue of a final judgment, for those who have reached the age of seventy on the date of issuing this legislative decree.**

This includes all those sentenced, regardless of their offense, provided there is a final ruling prior to the enforcement of the amnesty law, and that they have turned seventy years of age by the date this amnesty law is issued. Consequently, it does not include those against whom no final sentences have been passed, nor does it include those who reached the age of seventy after the date the amnesty law was issued.

#### **Article 5**

Includes amnesty for some crimes against state security mentioned in the Penal Code for the entire sentence for crimes stipulated in Articles 285 and 286, Paragraph 1 of Article 293 and Article 295, Paragraph 1 of Article 305 and Paragraph 1 of Article 306 of the Penal Code promulgated by Legislative Decree No. 148 of 1949 and its amendments, if the crime is committed by a Syrian.

#### **Article 285**

In Syria during times of war or when war is anticipated, spreading propaganda to weaken national sentiment or awaken racial or sectarian strife, is punishable with a term of imprisonment.

#### **Article 286**

1. In the same context, spreading false or exaggerated news in Syria which weaken the morale of the nation is punishable with a term of imprisonment.

#### **Paragraph 1 of Article 293 of the Penal Code**

1. Every act committed with the intent to incite armed disobedience against authorities established under the Constitution is punishable with a term of imprisonment.

#### **Article 295 of the Penal Code**

Conspiracy to commit one of the aforementioned crimes is punishable by criminal house arrest.

#### **Article 305 of the Penal Code**

1. Conspiracy intended to commit an act or acts of terrorism is punishable by hard labor from ten to twenty years.

#### **Article 306 of the Penal Code**



1. Every association established with the intention of changing the economic or social entity of the state, or the basic conditions of society, by one of the means mentioned in Article 304, shall be dissolved and its members served with terms of imprisonment with hard labor.

All these crimes, even if they are felonies, are covered by amnesty for entire sentences, provided that the perpetrator is Syrian. Non-Syrians do not benefit from this amnesty for these crimes.

## **Article 6**

Includes amnesty for entire sentences for some of the crimes mentioned in the Counter-Terrorism Law.

For entire sentences for crimes stipulated in Article 2 if the perpetrator is Syrian and Paragraph 2 of Articles 7, 8 and 10 of Law No.19 of 2012.

### **Article 2 of the Counter-Terrorism Law**

Conspiracy aiming to commit any of the crimes stipulated in this law is punishable by terms of imprisonment with hard labor.

### **Article 7 of the Counter-Terrorism Law**

- 1- If the means used in the terrorist act cause sound explosions only, terms of imprisonment are for five years of hard labor at least.

### **Article 8 of the Counter-Terrorism Law**

Terms of hard labor to anyone who distributes printed publications or stored information of any form with the intention of promoting means of terrorism or terrorist acts, and the same punishment shall apply to anyone who manages or uses a website for this purpose.

### **Article 10 of the Counter-Terrorism Law**

Any Syrian or foreigner residing in Syria who knows about one of the crimes stipulated in this law and does not inform authorities shall be punished by imprisonment for a term of one to three years.

Amnesty includes the entire sentence for these crimes stipulated in the Terrorism Law. This means that felonies not mentioned in this article are not covered by the provisions of this amnesty.

## **Article 7**

Includes amnesty for entire sentences involving kidnappings.

- A. For the entire sentence for the crime stipulated in Article 1 of Legislative Decree No. 20 of 2013:
  1. If the kidnapped person was released before the date this legislative decree was issued, without causing him any permanent disability.



2. If the kidnapper initiates the release of the kidnapped person safely for nothing in return or delivers him to any competent authority within ten days from the date this legislative decree becomes effective.
- B. The provisions of the previous paragraph shall apply to the crimes stipulated in Article 556 of the Penal Code promulgated by Legislative Decree 148 of 1949 as amended by Legislative Decree No. 1 of 2011 and Law No. 21 of 2012.

**Article 1 of Legislative Decree No. 20 of 2013**

Anyone who kidnaps a person, depriving him of his freedom with intentions of political or material gain, or with intentions of revenge, or for sectarian reasons, or with the intent to demand a ransom, shall be punished with life imprisonment with hard labor.

**Article 556 of the Penal Code amended by Legislative Decree No. 1 of 2011 and Law No. 21 of 2012**

1. Criminal shall be sentenced to term of imprisonment with hard labor:
  - A. If the period of deprivation of liberty exceeds one month.
  - B. If he inflicts physical or mental torture on the person deprived of freedom.
  - C. If the offense is committed against an employee whilst performing his job.
2. A person shall be punished with hard labor for 10-20 years and a fine twice the amount obtained from kidnapping using force or deception with the intent of demanding ransom. The maximum penalty shall be imposed if the act is committed against a juvenile who has not yet reached the age of eighteen years, in addition to the aforementioned fine.

According to this article, amnesty covers the entire sentence for kidnapping if the kidnapped person is freed before this legislative decree is issued, and if the kidnapping caused no permanent disability. It also covers the entire sentence for kidnapping if the kidnapped person is freed by the kidnapper within ten days from the date this legislative decree is issued, provided they are freed for nothing in return.

**Article 8**

Includes amnesty that covers entire sentences for smuggling crimes stipulated in Legislative Decree No. 13 of 1974.

For the whole term of deprivation of freedom for the crimes stipulated in Legislative Decree No. 13 of 1974 as per the following conditions:

- A. Pay fine and reach settlement with the General Administration of Customs, the bureau de change or competent department for cases where judgments have been issued.
- B. Reach settlement with the General Administration of Customs, the bureau de change or competent department for cases still pending before courts.

As per this article, amnesty covers entire freedom-deprivation sentences for all smuggling crimes and the like, provided that a fine is paid and a settlement reached with customs and competent administration.

**Article 9:**

Covers entire sentence for crimes of dealing in foreign currency.





Covering entire sentences for the crimes stipulated in Legislative Decree No. 54 of 2013 and its amendments, if the defendant or convicted person pays his obligations towards the Central Bank of Syria. This amnesty does not include confiscations issued by the judiciary.

This article covers the entire sentence for all crimes of dealing in a currency other than the Syrian currency, on condition that the defendant or convicted person pays his financial obligations towards the Central Bank of Syria.

### **Article 10**

Covers the entire sentence for drug possession offenses.

- A. For the entire sentence for the crimes stipulated in Article 43 of Legislative Decree No. 2 of 1993

#### **Article 43 of Legislative Decree No. 2 of 1993**

- A. Anyone who possesses, acquires, buys, transfers, delivers, or receives narcotic substances, with the intention of consumption or personal use in ways not authorized by law, shall be punished with a term of imprisonment and a fine of 100,000-500,000 Syrian Pounds.

As per this article, the amnesty is unconditional and covers the entire sentence for the offenses of possession, purchase, and transport of drugs, if the purpose is personal use.

### **Article 11**

Includes amnesty for desertion offenses.

- A. For the entire sentence for the following crimes stipulated in the Military Penal Code issued by Legislative Decree No. 61 of 1950 and its amendments:
  1. Entire sentence for crime of fleeing domestically, stipulated in Article 100.
  2. Entire sentence for crime of fleeing abroad, stipulated in Article 101.
  3. Entire sentence for crimes of absconding, stipulated in Article 103, paragraph.
- B. The provisions of paragraph A of this article do not include individuals in hiding and fugitives, unless they surrender themselves within three months if fleeing domestically and six months if fleeing abroad.

This article includes amnesty covering entire sentences for crimes of internal and external desertion and sets a condition that those covered by the provisions of this article surrender themselves within three months for the crime of fleeing domestically, and six months for the crime of fleeing abroad.

### **Article 12**

Includes amnesty for two-thirds of the sentence for some misdemeanors mentioned in the Penal Code; it is therefore an exception to the pardon contained in Article 2 of this Legislative



Decree stipulating amnesty covers entire sentences for misdemeanors, whereas this article mentions amnesty for two-thirds of the sentence.

For two-thirds of a misdemeanor sentence for crimes stipulated in the following articles of the Penal Code promulgated by Legislative Decree No. 148 of 1949 and its amendments: 341, 345 to 355, 386, 387, 428, 450, 451, 453, 455, and 584.

**Article 341 of the Penal Code**

Any employee or individual assigned to public service, whether by election or appointment, and any person assigned to an official task, such as arbiter, expert or syndic, who then solicits or accepts, for himself or for others, a gift, a promise, or any other benefit in order to perform a legitimate duty that falls under his job, shall be sentenced to imprisonment for three months to three years and a fine of at least double the value of whatever he took or accepted.

**Article 345 of the Penal Code**

Anyone who offers one of the persons mentioned in Article 341 a gift or any other benefit, or a promise in the form of undue wages, in order that he perform or not perform a duty that falls under his job, or to delay its implementation, shall be punished if the offer or promise is not accepted for at least three months imprisonment and a fine of at least twice the value of whatever was offered or promised.

**Article 346 of the Penal Code**

Any of the persons referred to in Article 341 who accept undue wages for work already performed under their job or mission, shall be punished with imprisonment for one month to one year and a fine of at least twice the value of whatever they accepted.

**Article 347 of the Penal Code**

Anyone who takes or seeks or accepts a promise of undue wages, whether for himself or others with the intention of seeking to attain for someone else a job, work, contracts, projects, or other profits, or grants from the state or a public administration, with the intent to influence the behavior of the authorities in any way, shall be sentenced to imprisonment for two months to two years, with a fine of at least twice the value of what was taken or accepted.

**Article 348 of the Penal Code**

If the act is committed by a lawyer to obtain the sympathy of a judge, arbiter, syndic, or expert in a case, he shall be punished with imprisonment for one to three years and he will be barred from practicing his profession for life.

**Article 349 of the Penal Code**

Any employee who embezzles any assets entrusted to him to manage, collect, or maintain by virtue of his position, whether money or other items belonging to the state or a person, shall be punished with imprisonment for one to three years and a fine of the least value of the object, which must be returned.

**Article 350 of the Penal Code**

When embezzlement occurs by way of inserting incorrect writings into bills or books, or by distorting or destroying accounts, documents, or other instruments, or in general, by using any trick to prevent the embezzlement being disclosed, the punishment shall be a term of imprisonment with hard labor in addition to the fine imposed under the previous article.

**Article 351 of the Penal Code**



Any employee who compels someone or forces him to perform or promise to perform anything he knows is not his duty, or who increases their dues in terms of taxes, fees or other returns, shall be punished with imprisonment for at least one year and a fine at least twice the value of that which must be returned.

#### **Article 352 of the Penal Code**

Any employee who unlawfully grants exemption from taxes, fees, fines or other revenues shall be punished with the same penalty.

#### **Article 353 of the Penal Code**

1. Anyone entrusted with selling, buying, or managing movable or immovable money for the account of the state or for the account of a public administration, who commits some fraud in one of these actions or contravenes applicable provisions, either for personal gain or for the benefit of one party over another, or to harm the administration, shall face a minimum of two years imprisonment and a fine of at least the value of the damage caused.
2. This in addition to punishments for bribery.

#### **Article 354 of the Penal Code**

Any employee making personal gain from a transaction by his administration, whether directly or through a third person, or with fake deeds, shall be punished with imprisonment for six months to two years and a fine of at least one hundred Pounds.

#### **Article 355 of the Penal Code**

The punishments under the preceding article are imposed on judges, money collectors, representatives of the administration, gendarmes or police officers, and anyone in charge of public authority and subject to state pension, if they openly or by resorting to fake deeds, directly or through a third person, to trade in the area where they exercise power in grains, foodstuffs and all other essential needs not produced by their own properties.

#### **Article 361 of the Penal Code**

1. Any employee who uses his power or influence, directly or indirectly, to impede or delay the application of laws or regulations, the collection of fees or taxes, or the implementation of a judicial decision or judicial warrant or any order issued by a competent authority, shall be punished with imprisonment for three months to two years.
2. If the person who uses his power or influence is not a public official, the punishment does not exceed one year.

#### **Article 386 of the Penal Code**

1. Anyone who takes, removes, or destroys, in whole or in part, papers or documents deposited in archives, court offices, or public storehouses and handed over to a public trustee in his capacity as such, shall be punished with imprisonment for one to three years.
2. If the act is committed by removing seals, climbing, breaking in, or by means of acts of violence against persons, the punishment shall be a term of imprisonment with hard labor.

#### **Article 387 of the Penal Code**

Anyone who burns or destroys, albeit partially, any records, drafts, or original public authority deeds, shall face the punishments under the previous article, including its differences.

#### **Article 428 of the Penal Code**

1. Anyone who forges a seal, symbol, or mark of a Syrian or foreign public administration, or forges a stamp made with those instruments.
2. Anyone who uses for unlawful purposes any of the official signs mentioned in the previous paragraph, whether authentic or forged, shall be punished with imprisonment for one to three years and a fine of one hundred to three hundred Syrian pounds.



**Article 450 of the Penal Code**

Anyone legally required to keep records monitored by authorities, who records therein falsifications or neglects to record correct information, shall be punished with imprisonment for one month to a year and a fine of at least one hundred pounds if the act would cause said authorities to commit errors.

**Article 451 of the Penal Code**

The same punishment shall apply to anyone who knowingly presents a forged, altered, or falsified document, intended to form the basis either for calculating taxes, fees, or other revenues owed to the state or a public administration, or for legal monitoring of the criminal's work relating to his profession.

**Article 453 of the Penal Code**

Any employee who knowingly submits any of these documents falsifying a name or identity is punished with imprisonment for one to three years.

**Article 455 of the Penal Code**

1. Anyone who, in the course of exercising public office, public service, or a medical or health profession, presents falsified certification which is intended for submission to a public authority, or which would unlawfully benefit others or harm the interests of another. Anyone who impersonates one of the aforementioned persons and commits forgery by altering such a certificate, shall be punished with imprisonment for one month to two years.
2. If the falsified certification is devised to present before a court or to justify an exemption from public service, the term of imprisonment shall not be less than six months.

**Article 584 of the Penal Code**

1. Anyone who intentionally interrupts telegraphic or telephone communications or radio broadcasts, whether by damaging machines, wires, or any other method, shall be punished with imprisonment for up to six months.
2. If the act results in danger to public safety, a prison sentence of three months to two years is faced.

For all the crimes mentioned in this article of the legislative decree, even misdemeanors, amnesty does not cover the entire sentence, but two-thirds of it.

**Article 13**

- A. For half the term of imprisonment for criminal offenses.
- B. For half the sentence for juvenile crimes.

This article includes all criminal offenses, punishable by a term of imprisonment, i.e., all sentences except death and life sentences, and amnesty covers half the term of punishment.

**Article 14**

Is specific to a military misdemeanor.

For half of a sentence for misdemeanors stipulated in Article 134 of the Military Penal Code promulgated by Legislative Decree No. 61 of 1950 and its amendments.

**Article 134 of the Military Penal Code**

Anyone innocent of the crime of desertion who does not return animals, weapons, or other items belonging to the army that were in his possession, shall be punished as stipulated in the previous article.



This crime is soldiers causing - as a result of negligence, dishonesty, or theft - loss of ammunition or any equipment or items belonging to the army; amnesty covers half the sentence for this crime.

### **Article 15**

Is concerned with criminal penalties mentioned in the Narcotics Law.

For one-third of the term of imprisonment for a criminal offense stipulated in Law No. 2 of 1993

This law is concerned with drug crimes, and under this article amnesty covers one-third of the punishment for all crimes falling within this law, including drug trafficking and smuggling.

### **Article 16**

- A. Life imprisonment with hard labor replaces the death penalty.
- B. 20 years imprisonment with hard labor replaces life imprisonment with hard labor.
- C. 20 years imprisonment replaces life imprisonment.
- D. The reduced terms stipulated in this article do not apply to felonies that result in personal harm unless the injured party forfeits its personal right; payment of court-ordered compensation does not forfeit this right, and in cases where the injured party did not make a personal claim, it has the right to submit one within sixty days from the date this legislative decree becomes effective; if this period elapses and such a claim has not been submitted, the reduced terms stipulated in this article shall apply.

This article includes all crimes, and in order for its provisions to apply, the injured party must waive its personal right.

### **Article 17**

Concerned with exceptions to what amnesty covers.

#### **Excluded from the provisions of this Legislative Decree:**

- A. Felonies of smuggling weapons and explosives stipulated in Legislative Decree No. 51 of 2001 and Legislative Decree No. 13 of 1974.
- B. Crimes stipulated in the following articles of the Penal Code promulgated by [Legislative Decree No. 148 of 1949](#) and its amendments: 263 – 264 – 265 – 266 – 268 – 271 – 272 – 273 – 274 – 275 – 276 - 277, Paragraph 3 of Article 305 if the act results in a person’s death, Paragraph 3 of Article 326, and 397 – 398 – 402 – 403 - 405, 476 to 478, 489 to 496 and 499 to 502, and 520, and 573 - 574 – 575 – 577 – 578 - 730.



- C. Crimes stipulated in the following articles of the Military Penal Code promulgated by Legislative Decree No. 61 of 1950 and its amendments: 102, and Paragraph 5 of Article 103, and Articles 154 – 155 – 156 – 157 – 158 – 159 - 160.
- D. Crime stipulated in Article 29 of Legislative Decree No. 6 of 2018.
- E. Crimes stipulated in Law No. 14 of 2015 and Legislative Decree No. 8 of 2021.
- F. Crimes stipulated in Legislative Decree No. 40 of 2012 and its amendments.
- G. Crimes stipulated in Paragraph 2 of Article 5 and Paragraph 3 of Article 6 of [Law No.19](#) of 2012.
- H. Crimes stipulated in [Legislative Decree No. 68 of 1953](#).
- I. Crimes stipulated in [Law No. 286 of 1956](#).
- J. Crimes stipulated in [Law No. 49 of 1980](#).

**Exceptions in Paragraph B of Article 17:**

**Article 263 of the Penal Code.**

1. Any Syrian who takes up arms against Syria in enemy ranks will be punished by death.
2. Any Syrian, even if not affiliated with a hostile army, who commits acts of aggression against Syria during wartime, shall be punished with life imprisonment.
3. Any Syrian who is recruited in any capacity by a hostile army and does not leave it before any act of aggression against Syria, shall be punished with a term of imprisonment and hard labor, even if he has acquired a foreign nationality through the recruitment.

**Article 264 of the Penal Code**

1. Any Syrian who conspires or enters into contact with a foreign State with a view to inciting it to commit aggression against Syria or providing it with the means to do so, shall be punished with life imprisonment with hard labor.
2. If his act produces an effect, he will be punished by death.

**Article 265 of the Penal Code**

Any Syrian who conspires or enters into contact with the enemy with a view to helping, in any manner whatsoever, to ensure the triumph of its forces, will be punished by death.

**Article 266 of the Penal Code**

1. Any Syrian who inflicts (or causes) by any means, with the intent to paralyze National Defense, damage to installations, factories, ships, pneumatic vehicles, tools, ammunition, livelihoods, means of transportation, and in general anything of a military nature or intended for the use of the army and its forces, shall be sentenced to life with hard labor.
2. If the act occurs in wartime or when war is anticipated, or if it results in loss of life, the penalty is death.

**Article 268 of the Penal Code**

1. Any Syrian who provides housing, food, or clothing to a spy or enemy reconnaissance soldier, while aware of his position, or helps him escape, shall be punished with imprisonment with hard labor.
2. Any Syrian who facilitates the escape of a prisoner of war or detained enemy national, shall be punished with a term of imprisonment.

**Article 271 of the Penal Code**

Anyone who enters or tries to enter a prohibited place in order to obtain items, documents, or information, which must remain concealed in the interest of state security, shall be punished with imprisonment for at least one year, with hard labor if sought for the purpose of espionage.



**Article 272 of the Penal Code**

1. Anyone who steals items, documents, or information such as those mentioned in the previous article, or obtains them, shall be punished with imprisonment with hard labor.
2. If the felony is committed for the benefit of a foreign country, the punishment shall be life with hard labor.

**Article 273 of the Penal Code**

1. Anyone who possesses documents or information, such as those mentioned in Article 271, and discloses it without legitimate cause, shall be punished with imprisonment for two months to two years.
2. The punishment shall be imprisonment with hard labor for at least five years if it is disclosed for the benefit of a foreign country.
3. If the offender keeps the aforementioned information and items in his capacity as employee, worker, or civil servant, the punishment shall be a term of imprisonment in the case provided for in the paragraph 1, and life imprisonment with hard labor in the case provided for in paragraph 2.
4. If any of the aforementioned persons is charged with nothing but an unintended mistake, the penalty shall be imprisonment for two months to two years.

**Article 274 of the Penal Code**

If the aforementioned espionage crimes are committed in the interest of a hostile country, punishments shall be increased in accordance with the provisions of Article 274.

**Article 275 of the Penal Code**

Any Syrian who lives in Syria and undertakes, or attempts to undertake, directly or through a third person, a commercial deal or any purchase, sale, or barter with an enemy national or with a person residing in an enemy country, shall be punished with imprisonment for at least one year and a fine not less than one hundred Syrian pounds.

**Article 276 of the Penal Code**

The punishment mentioned in the previous article shall be due to any of the persons mentioned therein if they contribute to a loan or subscription for the benefit of a hostile country, or if they facilitate its financial business by any means.

**Article 277 of the Penal Code**

Anyone who hides or embezzles funds from an enemy state or from one of its nationals, which is entrusted to a guard, shall be punished with imprisonment for one month to two years and a fine of at least one hundred pounds.

**Article 305 of the Penal Code**

3. If this results in sabotage, even partially, of a public building, industrial establishment, ship or other establishments, or in obstruction of intelligence, communication and transportation, or if the act results in the death of a person, the sentence is the death penalty.

**Article 326 of the Penal Code**

3. Anyone who carried out the felony or attempted murder, or inflicted upon the victims' torture and barbaric acts, shall face the death penalty.

**Article 397 of the Penal Code**

A witness who submits false excuses shall be punished with imprisonment for three months at most, in addition to a fine for failing to attend.

**Article 398 of the Penal Code**

1. Anyone who testifies before a judicial authority or a military or administrative judiciary and asserts a falsehood, denies the truth, or conceals some or all he knows about the facts of the case he is questioned on, shall be imprisoned for three months to three years.



2. If false testimony is given during a criminal investigation or a criminal trial, punishment shall be hard labor for ten years at most.
3. If the false testimony results in a death sentence or life sentence, punishment is hard labor for no less than ten years and may be raised to fifteen years.
4. If the offender listened but did not take an oath, the term is reduced to half.

#### **Article 402 of the Penal Code**

1. The expert appointed by the judicial authority who confirms a falsehood or knowingly interprets it incorrectly, shall be punished with imprisonment for at least three months and a fine not less than one hundred pounds, in addition to being barred from ever being an expert.
2. If the expert's task is related to a criminal case, the sentence shall be hard labor.

#### **Article 403 of the Penal Code**

1. A translator who intentionally makes an incorrect translation in a judicial case is subject to the penalties of the previous article, including differences therein.
2. Additionally, he is barred from ever practicing translation.

#### **Article 405 of the Penal Code**

1. Anyone who lies under oath in a civil matter shall be punished with imprisonment for six months to three years and a fine of one hundred pounds.

#### **Article 476 of the Penal Code**

2. Incest between ascendants and descendants, legitimate or illegitimate, or between brothers, sisters, half-brothers or half-sisters by the father or the mother, or in-laws of similar kinship, is punishable by imprisonment (one to three years).
3. If one of the criminals has legal or actual authority over the other, "the sentence shall not be less than two years."
4. The offender is prevented from having right of guardianship.

#### **Article 477 of the Penal Code**

1. Incest described in the previous article shall be prosecuted based on a complaint by a relative or in-law of one of the criminals, up to the fourth degree.
2. The prosecution shall proceed without a complaint if the matter leads to a scandal.

#### **Article 478 of the Penal Code**

1. Anyone who kidnaps or hides a child under seven years of age, or substitutes one child for another, or attributes to a woman a child to whom she did not give birth, shall be punished by imprisonment for three months to three years.
2. The punishment shall not be less than one year if the purpose of the crime, or its result, is to remove or distort evidence relating to the child's personal identity or to record a false personal identity in official records.

#### **Article 489 of the Penal Code**

1. Anyone who forces another not their spouse, using violence or threats, to have intercourse, shall be punished with hard labor for at least fifteen years.
2. The punishment shall not be less than twenty-one years if the victim is younger than fifteen years of age.

#### **Article 490 of the Penal Code**

Anyone having intercourse with someone other than their spouse who is unable to resist due to physical or psychological weakness, or due to deceitful acts performed against them, shall be punished with nine years' imprisonment.

#### **Article 491 of the Penal Code**

1. Anyone who has intercourse with a minor (under the age of fifteen) shall be punished with hard labor of nine years.





2. The punishment shall not be less than fifteen years if the child is younger than twelve years of age.

#### **Article 492 of the Penal Code**

1. Having intercourse with a minor over fifteen and under eighteen years of age, who is a relative, legitimate, or illegitimate, or an in-law, or any person over whom the offender exercises legal or actual authority, or a person in his service, shall be punished with hard labor for nine years.
2. The same punishment shall be imposed if the offender is an employee or a cleric, or director of or worker in an employment office, abusing his power or the facilities he enjoys due to his position.

#### **Article 493 of the Penal Code**

1. Anyone who forces a person with violence or threats to endure or perform an indecent act, shall be punished with hard labor for a period not less than twelve years.
2. The punishment shall not be less than eighteen years if the victim is younger than fifteen years of age.

#### **Article 494 of the Penal Code**

Anyone who resorts to deception or takes advantage of a person's physical or psychological illness to commit with them an indecent act or compel them to commit one, shall be punished with hard labor of up to fifteen years at most.

#### **Article 495 of the Penal Code**

1. Anyone who commits an indecent act with a minor under the age of fifteen, or compels them to commit one, shall be punished with hard labor of nine years.
2. The punishment shall not be less than twelve years if the child is younger than two years of age.

#### **Article 496 of the Penal Code**

Any of the persons described in Article 492 who commits an indecent act with a minor between fifteen and eighteen years of age, or compels them to commit one, shall be punished with hard labor for a period not exceeding fifteen years.

#### **Article 499 of the Penal Code**

1. Any employee who propositions the wife of a prisoner or detainee or subordinate, or a female relative of such a person, shall be punished by imprisonment for nine months to three years.
2. The same punishment shall face an employee who propositions the wife or relative of a person with a case entrusted to him or his superiors.
3. The sentence shall be doubled if the criminal has his way with any of the above-mentioned women.

#### **Article 500 of the Penal Code**

1. Anyone who abducts or attempts to abduct a girl or woman by deception or violence for the purpose of marriage, shall be punished with imprisonment for three to nine years.
2. Attempted crime is also punished.

#### **Article 501 of the Penal Code**

Anyone who abducts any person, male or female, by deception or violence for the purpose of committing an indecent act, shall be liable to nine years hard labor. If the said act is committed, the sentence shall be not less than twenty-one years.

#### **Article 502 of the Penal Code**

The above penalties shall be applicable where the offense is committed without deception or violence if the victim is a minor under 15 years of age.

#### **Article 520 of the Penal Code**

Any sexual intercourse contrary to nature is punishable by imprisonment for up to three years.

#### **Article 573 of the Penal Code**

Anyone who intentionally sets fire to a building, factory, workshop, warehouse, or any residential building located in a city or village, or sets fire to a railway vehicle or carriage carrying one or more persons other than



the offender, or a train carriage carrying one or more persons, or who sets fire to a ship at sea or anchored in a port, or aircraft in flight or parked in an airport, whether or not it is his property, shall be punished with hard labor for a period of no less than seven years.

#### **Article 574 of the Penal Code**

The same penalty shall face anyone who intentionally sets fire to an inhabited residential building or buildings located outside inhabited places, or in woods, or in woodland forests, or in orchards, or to crops before they are harvested, whether they are his property or not.

#### **Article 575 of the Penal Code**

Anyone who intentionally sets fire to a building that is not inhabited or residential and is located outside inhabited places, or to crops or haystacks, or to harvest left in its place, or to stacked or piled wood left in its place, whether or not he owns or owned them, and fire spread or could have spread to the property of others, shall serve a term of hard labor.

#### **Article 577 of the Penal Code**

If the fire results in the death of a person, the offender shall be sentenced to death in the cases provided for in Articles 573 and 574, and to life imprisonment with hard labor in the case provided for in Articles 575 and 576. The penalties mentioned in these articles shall be increased by half if it results in a person suffering a permanent disability.

#### **Article 578 of the Penal Code**

The preceding provisions in the same conditions shall apply to anyone who destroys or tries to destroy, even partially, one of the things mentioned therein with an explosive substance.

#### **Article 730 of the Penal Code**

If an armed gang of at least five persons, loots or destroys properties described above as a show of strength and power, each of the perpetrators shall be punished with a term of hard labor and a fine of between one hundred and two hundred Syrian pounds.

#### **Exceptions in Paragraph C of Article 17:**

##### **Article 102 of the Military Penal Code**

1. Any soldier who commits the crime of deserting to the enemy shall face capital punishment.
2. If the desertion occurs in the face of the enemy, he shall be punished with life imprisonment. If the deserter is an officer, he is punished with life imprisonment with hard labor, as well as with expulsion in any case.

##### **Article 103 Paragraph 5 of the Military Penal Code:**

In time of war, the following are punishable by death:

- A. Anyone who deserts, through a conspiracy, in the face of the enemy.
- B. Anyone who leads a conspiracy to flee the country.

##### **Article 154 of the Military Penal Code**

1. Any Syrian soldier or soldier in the service of Syria who bears arms against Syria shall face capital punishment.
2. Any prisoner who is recaptured after breaking a pledge to refrain from bearing arms shall face capital punishment.
3. Any Syrian soldier or soldier in the service of Syria who falls into enemy hands then regains his freedom, provided he no longer bears arms, shall face a term of imprisonment not exceeding five years. If he is an officer, he is additionally penalized with dismissal.

##### **Article 155 of the Military Penal Code**

Punishable by death:

1. Any military person who delivers to the enemy, or in the interest of the enemy, the soldiers under his command, or the location entrusted to him, or any arms, ammunition, provisions, maps of war sites,



factories, harbors and docks, passwords or secrets of military actions, campaigns and negotiations belonging to the army.

2. Any soldier who contacts the enemy in order to facilitate their work.
3. Any soldier who participates in conspiracies intended to pressure the decisions of the responsible military chief.

#### **Article 156 of the Military Penal Code**

Anyone who commits any of the following crimes in a time of war or in an area where martial law has been declared, with the intention of assisting the enemy or harming the army or forces of allied governments, shall face capital punishment.

- A. Anyone who reveals passwords, secret signals, alerts, or secret media pertaining to guards and police stations.
- B. Distorts news or orders pertaining to service when confronting the enemy.
- C. Discloses army or allied force locations to the enemy or specifies misleading paths to these aforementioned forces.
- D. Causes panic in a branch of the Syrian forces, or causes them to perform erroneous moves or actions, or obstructs the gathering of dispersed soldiers.

#### **Article 157 of the Military Penal Code**

Anyone who fails to report the crimes mentioned in this chapter prior to their occurrence, while aware of the matter, shall be sentenced to a term of imprisonment.

#### **Article 158 of the Military Penal Code**

1. The following are considered spies, and shall face the death penalty:
  - A. Any soldier who enters a war site, a military center, a military institution, a military workshop, a camp, or any army stores, in order to obtain documents or information which would benefit the enemy or which he believes will benefit himself.
  - B. Any military person who gives the enemy documents or information which may harm military actions or affect the safety of sites, centers, and other military institutions, or which he believes will do so.
  - C. Any soldier who hides, himself or through others, spies, or enemies, or is aware of such an occurrence.

#### **Article 159 of the Military Penal Code**

Any enemy who enters in disguise into the places indicated in the previous Article shall face capital punishment.

#### **Article 160 of the Military Penal Code**

1. Any person who incites military personnel to join the enemy or rebels, or knowingly facilitates the means for them to join the enemy or rebels, or places himself or someone else in the service of a country in a state of war with Syria, shall be considered a recruiter in the interests of the enemy, and punished by death.

#### **Exceptions in Paragraph C of Article 17:**

#### **Article 29 of Legislative Decree No. 6 of 2018 (forest law)**

- A. Imprisonment with hard labor for a period of no less than seven years shall face anyone who deliberately sets fire, by any means, in woodlands, forested lands, forest reserves, or protection zones.
- B. The penalty is increased by half if the fire results in a person being permanently disabled.
- C. The penalty is increased to death if the fire results in the death of a person.

#### **Exceptions in Paragraph E of Article 17:**

Crimes stipulated in Law No. 14 of 2015 and Legislative Decree No. 8 of 2021, Domestic Trade and Consumer Protection Act.

Crimes stipulated in Legislative Decree No. 8 of 2021, the Consumer Protection Act.

#### **Exceptions in Paragraph F of Article 17:**



Crimes stipulated in Legislative Decree No. 40 of 2012 and its amendments. This is the law on construction violations.

**Exceptions in Paragraph G of Article 17:**

Crimes stipulated in Paragraph 2 of Article 5 and Paragraph 3 of Article 6 of Law No.19 of 2012. Counter-Terrorism Law.

**Paragraph 2 of Article 5 of the Counter-Terrorism Law**

Article 5 is concerned with smuggling, manufacturing and possession of weapons, ammunition, and explosives. Paragraph 2 states:

If these acts kill or incapacitate a person, the penalty shall be capital punishment.

**Paragraph 3 of Article 6 of the Counter-Terrorism Law**

Article 6 is concerned with terrorist acts, and Paragraph 3 stipulates:

If the act results in the death of a person, the penalty shall be capital punishment.

**Exceptions in Paragraph H of Article 17:**

Concerned with crimes stipulated in Legislative Decree No. 68 of 1953. The law on penalties for acts that involve importing, selling, buying, possessing, or transporting goods exported from or re-exported from enemy countries.

**Exceptions in Paragraph I of Article 17:**

Concerned with crimes stipulated in Law No. 286 of 1956. This is the law to prevent collaborating with the enemy.

**Exceptions in Paragraph J of Article 17:**

Crimes stipulated in Law No. 49 of 1980. This is the law that criminalizes the Muslim Brotherhood.

## Article 18

Provisions of this Legislative Decree do not include:

- A. Fines for violating customs laws and regulations, currency and exchange, tobacco, construction regulation, electricity, and stamps.
- B. All fines stipulated in laws concerned with civil compensation.

## Article 19

Subject to the provisions of Article 16 of this Legislative Decree, the conditions to benefit from its provisions are:

- A. Convicted person pays by virtue of a final ruling the amounts, compensations and obligations decided in favor of the claimant in accordance with applicable principles, or personal claims are dropped.
- B. With regard to felonies and misdemeanors stipulated in Articles 628 to 659 of the Penal Code and its amendments, if a public lawsuit has not been initiated or if it is in the process of trial, amnesty shall not apply unless personal claims are dropped. The injured may pay the prosecution advance within thirty days from the entry into force of this legislative decree. If this period expires and a claim has not been submitted, the provisions of this legislative decree shall apply. In the event that a final judgment



is issued, the convicted person will benefit from the provisions of this legislative decree by paying the imposed obligations, and in so doing personal claims are dropped.

According to this article, in order to benefit from the provisions of the amnesty law, compensation and obligations imposed in favor of the claimant must be paid, or personal claims must be dropped.

Regarding felonies and misdemeanors stipulated in the Articles 628 to 659 (misdemeanors relating to theft and fraud), amnesty shall not be applied if a public lawsuit has not been initiated or if the case is in the process of trial, unless personal claims are dropped.

If a final judgment has been issued, the convicted person can benefit from amnesty if he pays off imposed obligations, as in so doing personal claims are considered to be dropped.

### **Article 20**

Individuals in hiding or fleeing from justice for felonies included in the provisions of this legislative decree, shall not benefit from this amnesty unless they surrender themselves within six months from the date of its issuance to the competent authorities.

For felonies, this article establishes a condition that must be met to benefit from the provisions of this legislative decree, unless those in hiding or fleeing justice turn themselves in within six months from the date of issuance of this legislative decree.

### **Article 21**

- A. The Minister of Justice, in coordination with the Minister of Defense, shall form the necessary medical committees to examine beneficiaries of the provisions of Article 3 of this Legislative Decree upon a request submitted by the beneficiary within a maximum period of one month from the date of its issuance.
- B. Reports by the medical committees are issued by decision of the Minister of Justice or the Minister of Defense, each in his own jurisdiction.

These committees are concerned with implementing the effects of Article 3 of this legislative decree, which grants amnesty for entire sentences for persons suffering from an incurable disease and needing special care.

### **Article 22**

The amnesty does not affect personal claims, which remain within the jurisdiction of the court controlling public litigation; in any case, the injured party may file a claim before the criminal court within one year from the date of issuance of this legislative decree. After this period, his right to institute it before this court shall expire, and he shall remain entitled to institute it before the competent civil court.



Including an offense in the amnesty shall not affect a personal claim, which remains within the jurisdiction of the court controlling the public claim; if the case is pending before the court of First Instance for example, the court will still consider the case for personal claim even if the crime is covered by the amnesty. A person injured by a crime covered by the amnesty has the right to file a case before the competent criminal court within one year from the date of issuance of this decree; after this period, he has the right to resort to the civil court to claim his compensation and rights.

### **Article 23**

This legislative decree shall be published in the official newspaper and shall be effective from the date of its issuance.

Damascus on 20/9/1442 Hijri, corresponding to 2/5/2021 AD.

**May 21, 2021**

**Anwar Majanni – Legal Advisor**

**The Day After (TDA)**

