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Behind Egyptian Law on Treatment of Senior Army Commanders

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On Tuesday, July 3, 2018, members of the Egyptian House of Representatives (parliament) approved the articles of the “Law on Treatment of Some Senior Armed Forces Commanders”, which Abdel Fattah Al-Sisi, being the supreme commander of the armed forces, referred to parliament for ratification.

First: The draft law

Article 1 of the draft law states that: “Senior commanders in the Armed Forces who are named by a presidential decree shall be summoned to serve the Armed Forces for life. Those who currently hold a position outside the Armed Forces shall be summoned immediately after completing their position.” This means that those “senior officers” will be summoned to serve the Armed Forces during their lifetime, and that those who are holding a civilian post will be recalled to the army service soon after they complete their term in office.

Article 2 stipulates that the: “Senior commanders in the Armed Forces, referred to in Article 1, who have not previously held a ministerial or higher position, shall be treated as a minister, and shall enjoy all privileges and rights stipulated for government ministers.”

Article 3 states that: “A presidential decree shall determine the privileges and other allowances enjoyed by the subjects of this law. The privileges and allowances established under the provisions of this Law may be combined with any privileges established under any other law.”

Article 4 stipulates that: “The persons referred to in Article 1 shall be awarded, by this law, medals of honor as determined by a presidential decree.”

Article 5 states that: “No investigation or judicial action may be initiated against any of the parties to the provisions of this Law for any act committed during the period of suspension of the Constitution until the date of the commencement of the work of the Council of Representatives, during the performance of their positions or because of them, except with the permission of the Supreme Council of the Armed Forces.”

Article 6 stipulates that: “The persons who are addressed by this law, while traveling abroad, shall enjoy the special immunities stipulated for the heads and members of diplomatic missions

throughout the duration of their service and the duration of their summons; and the Ministry of Foreign Affairs shall take all necessary measures to that end.”

Article 7 provides that: “This Law shall be published in the Official Gazette and shall come into force as of the day following the date of its publication. This law shall be stamped with the seal of the state, and enforced as one of its laws.”

Second: Justifications provided by the State

Maj. Gen. Mamdouh Shahin, Assistant Minister of Defense for Legal and Constitutional Affairs and one of the army commanders who are still members of the Supreme Council of the Armed Forces (SCAF), said that the Law on Treatment of Some Senior Armed Forces Commanders is not discriminatory, citing Law No. 35 of 1979 to honor the commanders of the October War, that was issued by the late President Anwar Sadat. Shahin stressed that the new law in question does not have any problematic on discrimination; saying: “I am now recalling Law No. 35 of 1979 on honoring the commanders of the October War.” He added: “Other honors have been issued on several occasions, and honoring some commanders is a tribute to all the armed forces. This is not discrimination but a tribute, and we thank the parliament for their support and development of the armed forces,” Shahin said.

For his part, Ali Abdel-Al, the Speaker of the House of Representatives, said that the Law on Treatment of Some Senior Armed Forces Commanders is not discriminatory, and that it is constitutional, adding that: “Honoring those who sacrificed their souls in redemption of their country is not considered any form of discrimination.” Abdel-Al said that the commanders of the October War were honored and this was not considered discriminatory. “This law has already been challenged before the Supreme Constitutional Court which has not responded to such appeal,” Shain said, adding “I am well assured that there is no discrimination at all in this law.”

MP Salah Hasballah, the media spokesman for the House of Representatives, said: “Since January 2011, Egypt has been subjected to serious turning points and state of insecurity, and this national army has stood by its people, backed and sided with them; and I agree to any law that honors members of the armed forces starting from the lowest soldier up to the highest commander, which is a national duty.”



In the same context, MP Mostafa Bakri said that "Since January 25, 2011 up to now, the armed forces have faithfully and sincerely performed their role out of national creed, and fulfilled their constitutional entitlements, including the handover of power to an elected civilian president, and sacrificed for the sake of the homeland." Bakri continued saying, "There is an important example for this, namely Field Marshal Mohamed Hussein Tantawi, who should be honored in recognition of his role in the defense of the homeland." Bakri paid tribute to the martyrs of the army and police, adding: This is a law of loyalty and we thank the Supreme Commander of the Armed Forces (Sisi) for this honor and tribute to the men who have sacrificed for the homeland. This law is not a blessing from anybody; and this is Major General Mamdouh Shahin, Assistant Minister of Defense for Legal and Constitutional Affairs, who was a witness to this period and played a role in saving the country."

MP Magdi Morshed said: "I express my reservation that this law only included the senior commanders; and I say clearly that all officers of the armed forces should be included and given moral honor within this law."

Third: Implications and interpretations

1- Law 35 of 1979 and the Law on Treatment of Senior Commanders of the Armed Forces: Paradoxes and Variations

Maj. Gen. Mamdouh Shahin, Assistant Minister of Defense for and Legal and Constitutional Affairs, cited Law 35 of 1979 issued by President Anwar Sadat, saying that the Law on Treatment of Senior Armed Forces Commanders, which Sisi has referred to the parliament for ratification, is inspired by that law (Law 35 of 1979), as Law No. 35 of 1979 stipulates the following:

Article 1: The commanders of the main branches of the armed forces, namely: the Minister of Defense, the Chief of Staff, the Commander of the Air Force, the Commander of the Air Defense, the Commander of the Naval Forces, and the Chairman of the Armed Forces' Operations Authority during the Six October War shall continue to serve in the armed forces for life, i.e. a total of six military commanders; and the legislative committee of the People's Assembly at the time ratified the law and stated in its draft that the law applies to a limited number of senior commanders, as it is difficult to expand the application of the law. The parliament committee also said it viewed the honoring of these commanders as a tribute to all members of the armed forces. Law 35 of 1979 also states in



Article 2 that these commanders shall provide advice and express their views when requested and are considered lifelong advisers in military matters.

بمنحها باعتبار استمراره في الخدمة العسكرية أيها الأمر ، عما إذا
التعيين بصرف بالغة المدنية أو العسكرية أيها الأمر وعند العودة إلى
الخدمة بالقوات المسلحة يستمر صرفه بالغة الأجل .

ويخصص بقية الرواتب والشعور والبدلات المستحقة وهذا هذه
المادة على موازنة وزارة الدفاع ، وتسمى عليها سائر الإعفاءات المقررة
بالنسبة لرواتب وتعويزات ضباط القوات المسلحة

ويطبق حكم هذه المادة على من تكون فداحين منهم إلى الضباط
أو من في وطنيه مدنيه قبل تاريخ النسخ لهذا القانون .

وتسمى على هذه الخدمة المدنية المذكورة في هذه المادة الضباط والمدراء
الإضافية المنصوص عنها بالقانون رقم ٩ لسنة ١٩٧٥ المشار إليه .

(المادة الرابعة)

يعرف هؤلاء الضباط ما يكون قد استحق لهم من مكافأة من مدة
الخدمة القائمة عن مدة الخدمة المشغولة في العاش عند بلوغ كل منهم
سبع سنين عاماً .

(المادة الخامسة)

يتمتع المستحقون من الضباط المنصوص عنهم في المادة الأولى بخلاف
تجزئياً بمعدل حاق حملة ما كان يتقاضاه كل منهم من رواتب وتعويزات
في حياتهم .

ويوزع هذا العاش على المستحقين منه وفق الأحكام المبين في
المادة الأولى للقانون رقم ٩ لسنة ١٩٧٥ المشار إليه ، فإذا لم تنفذ أجرة
المستحقين كامل العاش بعد توزيع المبالغ عليهم بطبيعة أنفسهم ، وإذا
ما مثل أو أوقف سائل أحد هؤلاء المستحقين إلى تعيينه للمنتقل
المستحقين .

وتسمى حكم هذه المادة على المستحقين عن القائد العام للقوات
المسلحة في التاريخ ذاته المنصوص عنه في المادة الأولى .

(المادة السادسة)

ينشر هذا القرار بقانون في المريدة الرسمية ، ويعمل به من تاريخ
صدوره .

قرار رئيس جمهورية مصر العربية

بالقانون رقم ٣٥ لسنة ١٩٧٩

بشأن تكريم كبار قادة القوات المسلحة خلال حرب أكتوبر ١٩٧٣
والاستفادة من الخبرات الواردة لأحكام منهم

بإسم الشعب

رئيس الجمهورية

بعد الاطلاع على الدستور

وعلى القانون رقم ٣٣ لسنة ١٩٥٩ في شأن شروط الخدمة والترقية
لضباط القوات المسلحة ،

وعلى القانون رقم ٩٠ لسنة ١٩٧٥ في شأن التزامه والتأمين والتعويضات
لقوات المسلحة ،

وعلى مداخلة مجلس الوزراء

تقرر :

(المادة الأولى)

يستمر الضباط الذين كانوا يشغلون وظائف قادة الأفرع الرئيسية
ورئيس هيئة عمليات القوات المسلحة في حرب السادس من أكتوبر ١٩٧٣
في الخدمة بهذه القوات مدى حياتهم وذلك استثناء من أحكام المادة ٢٣
من القانون رقم ٩٠ لسنة ١٩٧٥ المشار إليه والمواد ٣٨ ، ٣٨ (مكرر)
و ١٣٨ (فقرة أخيرة) من القانون رقم ٣٣ لسنة ١٩٥٩ المشار إليه .

(المادة الثانية)

يقوم الضباط المنصوص عنهم في المادة الأولى بتقديم المشورة في
الموضوعات العسكرية ذات الأهمية الخاصة التي يطلب منهم إعطاء الرأي
فيها .

(المادة الثالثة)

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و ١٣٨ (فقرة أخيرة) من القانون رقم ٣٣ لسنة ١٩٥٩ المشار إليه .

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فيها .

(المادة الثالثة)

إذا اقتضت الضرورات الوطنية تعيين أحد هؤلاء الضباط في إحدى
الوظائف المدنية الكبرى فإنه يعود إلى الخدمة بالقوات المسلحة بعد انتهاء
خدمته المدنية في أي وقت ويستحق خلال خدمته المدنية راتب وتعويزات
وبدلات وطنية المعين بها أو الراتب والتعويزات والبدلات التي كان

In Law No. 35 of 79, former President Sadat named the senior commanders of the armed forces within the law provisions, which was not done by Sisi in the law that has just been passed. The latest law only stipulates that the names of these commanders will be decreed by Sisi later. Some expect that Sisi will name the commanders of the military junta who joined SCAF from the time of the January revolution to the present time: about 71 military commanders that will be addressed in detail later. Also, President Sadat did not protect the military commanders of the October War from any prosecutions in the case of committing any acts against law, but he only considered them as military commanders in service for life and gave them some financial privileges, contrary to what Sisi has done of providing them with protection from any prosecutions, for the first in Egypt.

It should be noted that former President Mohamed Hosni Mubarak was the commander of the Air Force at the time of the Six-October War. In spite of the existence of Sadat's law (No. 35 of 1979), however, it did not protect Mubarak from being brought to courts for trial after the January Revolution. Even if such laws were meant to provide immunity for the army commanders, they become void in the case of the outbreak of revolutions and changing the political regime in the country. It is noteworthy that Farid El-Deeb, Mubarak's lawyer, resorted to Law No. 35 of 1979, as an attempt to prevent holding Mubarak accountable for his alleged crimes, but jurists refuted this attempt as wrong deduction.

2- Message of reassurance and reduction of conflicts

The Law on the Treatment of Senior Commanders of the Armed Forces comes after Sisi's restructuring of SCAF. The military council that participated in the military coup that Sisi led against President Mohamed Morsi has almost been completely changed except for only three commanders, namely Lt. General Mohamed Farid Hegazi, former Secretary-General of the Defense Ministry and current Chief of Staff; Major General Mamdouh Shahin, the Assistant Minister of Defense for Legal and Constitutional Affairs; and Major General Mohamed Amin Nasr, the Chairman of the Financial Affairs Authority of the Egyptian Armed Forces. Observers say that some commanders who were removed from SCAF were dissatisfied with Sisi's decisions and believed that they were being sacrificed. Furthermore, such commanders were frightened of being exposed to prosecutions at home or abroad in the event of any change in Egypt's internal situation. Such change is expected to occur as highlighted by some indicators in light of the Egyptian regime's failure to face the country's internal crises. Therefore, Sisi probably wanted to reassure those commanders who left service that



they are protected from any abuse that could be inflicted on them both at home and abroad, in addition to giving them many personal privileges.

Some explained Sisi's move to issue this law at the present time as a desire on his part to calm the fears of army commanders who have been feeling uneasy since the sacking of former Minister of Defense Sedki Sobhi [although he had been protected by the Constitution from dismissal for a period of eight years (two terms in office) or at least this is what the Sisi intelligence services were circulating since Sobhi's appointment in his post in March 2014] and the exclusion of most of Sisi's coup allies within the army. Sisi wanted to send them a message that the dismissal of Sobhi is a normal legal procedure, that none of them will be threatened, except with the permission of the SCAF which he himself appointed, and that all of them have been granted the advantages of ministers. This is a classic carrot-and-stick policy to reward his allies and at the same time warn them that he still has the power to prosecute them. Therefore, some suggested that Sisi wanted to provide those senior commanders with many privileges (as a kind of bribe) to prevent them from carrying out any hostile acts against his regime. At the time Sisi gives them all these privileges to earn their loyalty, he still retains all the tools of abuse that can be used against any one of them when needed, as he did with former Chief of Staff Lt. General Sami Anan when he announced his intention to run against Sisi in the presidential election of 2018 without obtaining the SCAF approval. This was clear in Article 5 of Sisi's law which stated that "No investigation or judicial action may be initiated against any of the parties to the provisions of this Law for any act committed during the period of suspension of the Constitution until the date of the commencement of the work of the Council of Representatives, during the performance of their positions or because of them, except with the permission of the Supreme Council of the Armed Forces."

3- New rules of treatment among military commanders

Some believe that the military commanders that were removed from the SCAF practiced pressure on Sisi to issue laws to protect them from abuse and prosecution, after their removal without any procedures to secure them from internal and external prosecutions – as happened with Lt. General Mahmoud Hegazi during his visit to the United Kingdom in 2016 and the events that took place during that visit, especially what was said at the time that Hegazi was to be arrested for some lawsuits raised against SCAF members by some rights activists for the crimes they have committed since July 3, 2013.

Some believed that Sisi's action against former Chief of Staff General Sami Anan had caused tension among the senior commanders of the armed forces. Some of the military commanders were the idea of the abuse that Anan was exposed to, and that the image of the military institution was somehow distorted to the public opinion. Therefore, they practiced pressure on Sisi to issue laws for governing the military institution in cases of disagreement, while maintaining significant privileges for the senior commanders of the armed forces.

Fourth: Senior commanders of the armed forces

Article 1 of the law states that Sisi will name some of the senior commanders addressed by the law, but it does not mention any of these names. However, the commanders who will be included in this decision are expected to be the commanders who joined the SCAF from the January Revolution in 2011 to the present time, according to Maj. Gen. Mamdouh Shahin and MP Mostafa Bakri. The following table shows the military commanders who served in the Egyptian army but were later dismissed from service, and are addressed by the Law on Treatment of Senior Commanders of the Armed Forces:

No.	Name	Position
01	Field Marshal Mohamed Hussein Tantawi	Former Defense Minister
02	Lieutenant General Sami Hafez Anan	Former Chief of Staff
03	Lieutenant General Mohab Memish	Former Navy Commander
04	Lieutenant General Reda Mahmoud Hafez	Former Air Force Commander
05	Lieutenant General Abdel-Aziz Seif Eddin	Former Air Defense Commander
06	Major General Hassan al-Roueini	Former GOC, Central Military Zone
07	Major General Nabil Mohamed Fahmi	Former GOC, Northern Military Zone
08	Major General Ahmed Youssef Abdel Nabi	Former Border Guards Force Commander
09	Major General Mohsen al-Fanagry	Former Assistant Defense Minister
10	Major General Adel Emara	Former Assistant Defense Minister
11	Major General Ismail Etman	Former Director of the Morale
12	Major General Mokhtar El Molla	Former Assistant Defense Minister for Political Affairs



13	Major General Tareq Al-Mahdi	Former Assistant Defense Minister
14	Major General Mohamed Saber Attia	Former Director of Military Operations
15	Major General Mamdouh Abdel-Haq	Former Assistant Defense Minister
16	Major General Sedki Sobhi	Former GOC, Third Field Army
17	Lieutenant General Abd Al-Moniem Al-Terras	Former Commander of Air Defense
18	Lieutenant General Osama Rabie	Former Navy Forces Commander
19	Lieutenant General Osama Al-Gendi	Former Navy Forces Commander
20	Staff Major General Ahmed Wasfi	Former Second Field Army Commander
21	Staff Major General Nasser Al-Asi	Former Second Field Army Commander
22	Lieutenant General Osama Askar	Former Third Field Army Commander
23	Major General Salah Al-Badri	Former Military Intelligence Director
24	Staff Major General Said Abbas	Former GOC, Northern Military Zone
25	Staff Major General Mohamed Zamalout	Former GOC, Northern Military Zone
26	Staff Major General Mohamed Arafat	Former GOC, Southern Military Zone
27	Staff Major General Yehia Taha	Former GOC, Southern Military Zone
28	Staff Major General Mohamed Al-Masri	Former GOC, Western Military Zone
29	Staff Major General Mohamed Al-Assar	Former Head of Armament Authority
30	Staff Major General Ahmed Abu Eddahab	Former Head of the Organization and Administration Authority
31	Staff Major General Tawhid Tawfiq	Former Head of Military Operations Authority
32	Staff Major General Mohsen El-Shazly	Former Head of Military Operations Authority
33	Staff Major General Gamal Ismail	Former Head of Logistics Authority
34	Staff Major General Ibrahim Al-Nosouhi	Former Head of Training Authority
35	Staff Major General Taher Abdullah	Former Head of Engineering Authority
36	Staff Major General Emad Al-Alfi	Former Head of Engineering Authority
37	Staff Major General Medhat Ghazzi	Former Head of Military Judiciary
38	Major General Ahmed Ibrahim	Former Commander of Border Guards
39	Colonel Ahmed Ali	Former Military Spokesman
40	Colonel Mohamed Samir	Former Military Spokesman



41	Major General Abdel- Mordi Abdel-Salam	Former Head of Logistics Authority
42	Major General Mahmoud Hegazy	Former GOC, Western Military Zone
43	Staff Major General Abdel Mohsen Mousa	Director of Armament Authority
44	Staff Major General Khairat Barakat	Director of Officers Affairs Authority
45	Lieutenant General Younes Al-Masri	Air Force Commander

In addition, the current military junta commanders are:

No.	Name	Position
01	Abdel-Fattah Said Hussein Al-Sisi	According to Constitution, Sisi is Armed Forces Supreme Commander
02	Lt. General Mohamed Zaki	Defense Minister (SCAF Chairman)
03	Lieutenant General Mohamed Farid Hegazi	Chief of Staff (SCAF Deputy Chairman)
04	Staff Major General Mohamed Abdellah	Defense Ministry Sec. Gen. (SCAF Secretary)
05	Lt. General Mohamed Abbas Helmi	Air Force Commander
06	Lt. Gen. Ali Fahmi Mohamed Ali Fahmi	Air Defense Commander
07	Lt. Gen. Ahmed Khaled Hassan Said Ahmed	Navy Commander
08	Staff Major General Basem Riyadh Helal	Border Guards Force Commander
09	Staff Major General Khaled Megawer	GOC, Second Field Army
10	Staff Major General Mohamed Raafat Al-Dish	GOC, Third Field Army
11	Staff Major General Ayman Amer	GOC, Central Military Zone
12	Staff Major General Ali Adel Ashmawi	GOC, Northern Military Zone
13	Staff Major General Sherif Hussein	GOC, Southern Military Zone
14	Staff Major General Sherif Beshara	GOC, Western Military Zone
15	Staff Major General Wahid Ezzat	Former GOC, Western Military Zone
16	Staff Maj. Gen. Abdel Mohsen Mousa	Head of Armament Authority
17	Staff Major General Nasser Asi	Head of Armed Forces Training Authority
18	Staff Major General Salah Eddin Helmi	Head of Logistics Authority
19	Staff Major General Mohamed Amin Nasr	Head of Financial Affairs Authority
20	Major General Emad Abdel Aziz	Head of Judiciary Authority

21	Staff Major General Abdel Ghani Al-Saghir	Head of the Organization and Administration Authority
22	Major General Mamdouh Shahin	Assistant Defense Minister for Constitutional and Legal Affairs
23	Staff Major General Mohamed Anwer Al-Shahhat	Director of Military Intelligence
24	Staff Maj. Gen. Abdel-Nasser Hassan Al-Azab	Director of Officers Affairs Authority
25	Staff Major General Kamel Al-Wazir	Director of Armed Forces Engineering Authority

Conclusion

Sisi is carrying out more measures that give senior Egyptian military commanders a lot of personal privileges to win their loyalty and prevent any aspirations or hostile attempts on their part against him (Sisi) during his second term. This comes after Sisi's policies over the past five years raised a lot of hostility against him within the military institution. On the other hand, Sisi is imposing strict control on senior Egyptian army commanders, especially those whom he removed from their senior positions within the military.

Through the developments in the military institution during the past five years, Sisi succeeded to take control of all the security and information systems as well as centers of power and control joints within the military; and based on this control, Sisi is overlooking any opposition voices within the military, and represses anyone that he thinks might cause him any threat.