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Egypt: Pardon Committee – temporary remedy & attempt to relieve pressures

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The role of the Presidential Pardon Committee, which Sisi suddenly reactivated after the so-called "Egyptian Family Breakfast" last April, does not go beyond providing a temporary and partial remedy for the restrictions imposed by the Egyptian regime on freedoms and the increasing number of political prisoners, whose number exceeds 60,000, according to estimates of human rights organizations.

The committee does not primarily treat the disease, which is expansion of pretrial detention and unfair trials that lacked principles of a fair trial, whether conducted in accordance with the emergency law, or in accordance with the natural judiciary, based on dozens of legislation restricting the fundamental freedoms stipulated in the Constitution, including the right to freedom of expression, peaceful assembly, circulation of information, fair trial, and others.

First Stage of the Presidential Pardon Committee:

Egypt's Abdel-Fattah El-Sisi had given orders to form the presidential pardon committee at the first youth conference that was held in Sharm El-Sheikh in October 2016. Then, it included five members: Dr. Osama Al-Ghazali Harb, Nashwa Al-Hofy, Mohamed Abdel Aziz, Tariq Al-Khouly, and Karim Al-Sakka.

However, the presidential pardon committee is of an advisory nature, as it does not have any legal authority. One of the committee members once pointed out that the committee does not have the power to issue decisions regarding presidential pardon, given that this is only limited to Sisi¹.

The task of the committee, according to the presidential directive, is to examine cases of young people who were not involved in violence, intimidation of citizens, or sabotage of institutions, as well as those previously convicted of crimes that fall under felonies punishable by law, regardless of their motives.

¹ Tariq Al-Awadi, Youm7, 8 May 2022

Then, the committee shall prepare lists including nominations of certain names and submit them to the Presidential Institution for likely issuance of pardon decrees for the names included in the list. The committee is also responsible for preparing lists of detainees in pending cases who have not been given sentences.

It is clear that the formation of the committee has been of political and youthful nature, where the first group of its members included experts such as Dr. Osama Al-Ghazali Harb, an expert at the Center for Political and Strategic Studies at Al-Ahram Foundation, and editor-in-chief of the International Politics magazine, who is close to the Sisi regime. The committee also included youth elements supportive of the post-June 30 regime, i.e. Mohamed Abdel Aziz, leader of the Tamarod "Rebellion" Front, which was established before the June 30 demonstrations against former President Mohamed Morsi, demanding early presidential elections; and Tariq al-Khouli, the former coordinator of the April 6 Movement - Democratic Front, a front that had defected from the April 6 Movement. He later became a member of the House of Representatives and undersecretary of the Parliament's Foreign Relations Committee.

There are a number of comments on the decision to establish the committee:

- No official decision was issued by Sisi to establish this committee for setting specific tasks and powers, and specific organizational structure for its members. The formation of the committee was only announced through the Presidential Media Office after the end of the activities of the first youth conference.
- The committee did not include in its membership persons from the state's official authorities specialized in legal aspects and supervising prisons, whether from the Ministry of Interior or its Prisons Authority or from the Ministry of Justice. Although some may suggest that this guarantees the greatest degree of freedom of movement by the committee, but in fact it deprives the committee from the information and data necessary for the conduct of its work. Therefore, the committee has relied -in its first and second phases- only on the suggestions and orientations of its members.
- The committee did not include human rights or legal elements within its membership, as they are the most appropriate for this task, whether affiliated with the National Council for Human Rights or an independent human rights organizations.

- The number of members of the committee is not sufficient to carry out the functions necessary to implement its goals, given the size of tasks or burdens placed on it. In addition, the committee lacks human, material and technical resources, where the members of the Committee are not dedicated to this task².
- The formation of this committee came in the wake of the first youth conference, to highlight the regime's interest in hearing the opinion of young people, in light of the increasing demands to reconsider the conditions of those convicted in cases of demonstration and gathering in the events that Egypt witnessed during the period from 2013 to 2015.

The committee's working mechanism:

It can be noted that the most important mechanism for the committee's work is receiving complaints and requests from the families of the convicted and imprisoned, the House of Representatives' Human Rights Committee, the National Council for Human Rights, parties, and organizations working in the human rights field, which in turn receive them from the families of prisoners.

In its first phase, the committee prepared four lists of prisoners, who were pardoned by presidential decrees: the first list, including 82 people; the second list, including 203 people; the third list, including 502 people; and the fourth list, including 331 people; bringing the number of those pardoned at that stage to 1,118 prisoners. However, it is reported that there was another list including 560 people, the most prominent of whom was the journalist Abdel Halim Qandil.

Second Stage of the Presidential Pardon Committee:

After it had been frozen for four years, Sisi announced during the so-called 'Egyptian Family Breakfast' held last Ramadan on Tuesday, 26 April, the re-formation of the committee, adding Kamal Abu Aita, a leader in the Karama Party and former Minister of Manpower and Lawyer Tariq Al-Awadi to its members .

² Moataz Billah Othman, Presidential Pardon Committee .. Tasks and Problematics, Parliamentary Issues Journal, Issue 69, February 2018, Al-Ahram Center for Political and Strategic Studies.

This step came in light of mounting international pressures on the Egyptian regime regarding human rights violations in Egypt, including the continued pre-trial detention of thousands and emergence of the phenomenon of rotation of these prisoners on several different cases with the same accusations, including: dissemination of false information, misuse of the social networking sites, and joining a terrorist group.

Since orders were given to activate the committee's work again, four presidential pardon decisions have been issued that have a direct relationship with the committee's activity, as follows:

1- The activist Hossam Mounis, pursuant to Resolution No. 178 of 2022 pardoning the sentence imposed on the convict in Case No. 957 of 2021. Mounis had been arrested in Case 930 of 2019, known as the Hope Alliance, among others, but the pardon did not include the rest of those sentenced to prison in the same case!!

2- Engineer Yahya Hussein, the former coordinator of the Civil Democratic Movement, pursuant to Presidential Decree No. 219 of 2022. Hussein was investigated for an article he published in 2018 in which he criticized the regime.

3- Presidential Pardon Decree No. 260 of 2022 pardoning the prison sentence of 3 convicts in the case known in the media as "Council of Ministers Events". The decision included a pardon for the sentence of: Saeed Mohamed Attia Ibrahim, Mohamed Eid al-Gharib Ibrahim al-Sherai, and Mohamed Morsi Mohamed Morsi.

4 - On July 28, Presidential Pardon Decree No. 329 of 2022 was issued, pardoning a number of those against whom final judicial rulings were issued, including journalist Hisham Fouad, researcher Ahmed Samir Santawi, artist Tariq Al-Nahri, Abdel Raouf Khattab Hassan Khattab, Qassem Ashraf Qassem Ahmed, Tariq Mohamed Al-Mahdi Siddiq, and Khaled Abdel Moneim Sadiq Saber.

In the meantime, there were reports that some 148 detainees were released from the State Security Prosecutions, 41 of whom were released two days before the activation of the presidential pardon

committee. Other sources indicated that only 97 defendants in cases of the Supreme State Security Prosecution were released from April 25 to June 17³.

Functions of the Pardon Committee:

A number of legal issues were raised related to the committee's role and its mandate to examine the situation of pretrial detainees pending cases of opinion, as well as the committee's criteria for the type of prisoners whose presidential pardon is to be applied in the lists of detainees and prisoners of conscience.

About its priorities and work agenda, the committee had set some categories, most prominently the youth, students, critical humanitarian cases, labor, and journalists⁴.

Also, the Pardon Committee sought to include pretrial detainees as part of its duties, although it is not compatible with its main task according to which it had been formed, especially that the pretrial detentions are under the authority of the Public Prosecution and courts, which should hear their appeals against detention orders.

A dispute arose over the criteria for presidential pardon on which the committee was based. In general, some members of the committee continued to emphasize adoption of basic criteria, most notably: not belonging to a terrorist organization and not committing acts of violence, while others defined those to be included on the Pardon Committee agenda as:

- Anyone who did not participate in acts of violence and terrorism, including those who participated in protests, published posts on social media or distributed leaflets; whereas anyone who exceeds the period of pretrial detention must be released immediately or referred to trial.

³ Darb website, Lawyer: Since the formation of the Pardon Committee, 97 pretrial detainees have been released and 5 prisoners have been pardoned, 17 June 2022.

⁴ Dr. Medhat Mohamed Abdel Aziz Ibrahim, Penal Code / General Section, The General Theory of Punishment and Precautionary Measures (a comparative study), 1st. edition 2007, Dar Elnahdha Elarabia (Arab Renaissance House), Cairo. p 16

Human rights organizations believe that the previous standards deprive a large number of political prisoners, including thousands of Brotherhood members accused of belonging to a group whose goal is to overthrow the regime, even if they were unjustly accused; thus placing thousands of detainees under these charges, even if they had demonstrated peacefully without a permit, without being accused of assaulting public officials.

Therefore, a number of Egyptian human rights organizations inside and outside Egypt sought to demand the existence of clear and public standards and controls for decisions to release or pardon detainees, whether convicted or remanded in custody pending political cases, in the hope that the decision aims primarily to release all detained on political charges or because of expression of their opinions.

Rejecting selectivity, and emphasizing the principle of a radical solution to the issue of political prisoners in Egypt, human rights organizations submitted proposals for criteria and controls for the release of all political prisoners in Egypt, against the backdrop of the formation of the presidential pardon committee.

Following are the most important criteria:

- Giving urgent priority in decisions to release political prisoners to the cases of the ill, minors, the elderly, and all those imprisoned in publishing cases.
- The need for releasing all those who exceeded the maximum limit of pretrial detention, even if they were imprisoned pending new cases on similar charges, to ensure their continued imprisonment in what has become known as the phenomenon of "rotation of political detainees".
- It is necessary to release all pretrial detainees who have been in prison for a maximum of six months without the prosecution having sufficient evidence to refer them to trial; and to pardon the rest of the sentence for those who had been previously convicted on political charges and have served more than half of the sentence.

Controversy over possibility of inclusion of MB members on pardon lists:

There have been continued controversy over the possibility of including detainees affiliated with the Muslim Brotherhood on the presidential pardon lists, especially in the wake of statements by a

member of the presidential pardon committee, Tariq Al-Awadi to Al-Jazeera Mubasher at the end of June that "the committee has no objection to study and check names of Brotherhood prisoners or those affiliated with them, to add them to the pardon lists and release them, provided that they have not been involved in violence."

Meanwhile, press information indicated that the security services refused to release any of the Brotherhood leaders from the first ranks within the group, because the issue is subject to strict controls and to avoid being mistakenly understood that the exit of a leadership such as Aboul Fotouh involves reconciliation. The inclusion of Brotherhood names from the first ranks requires political will and creation of a public atmosphere.

However, it is expected to select a group of names close to the Brotherhood from the second and third ranks as a kind of pulse test before adopting a step that may include leaders from the first rank at a later stage. However, the veto over the release of Brotherhood leaders is likely to continue until the Pardon Committee goes a long way in releasing other civilian figures, and measuring the outcome.

About the committee's task

The task of the presidential committee does not exceed the collection of names of remand prisoners who have been imprisoned for years, and those sentenced in cases of a political nature, and submit them to the security services for initial approval to be passed on to the Presidency to issue presidential pardon decisions. One of its main tasks is to provide temporary palliative measures with respect to the issue of detainees who have been subjected to pretrial detention or who have been sentenced in political cases because of their exercise of freedom of opinion, expression and demonstration.

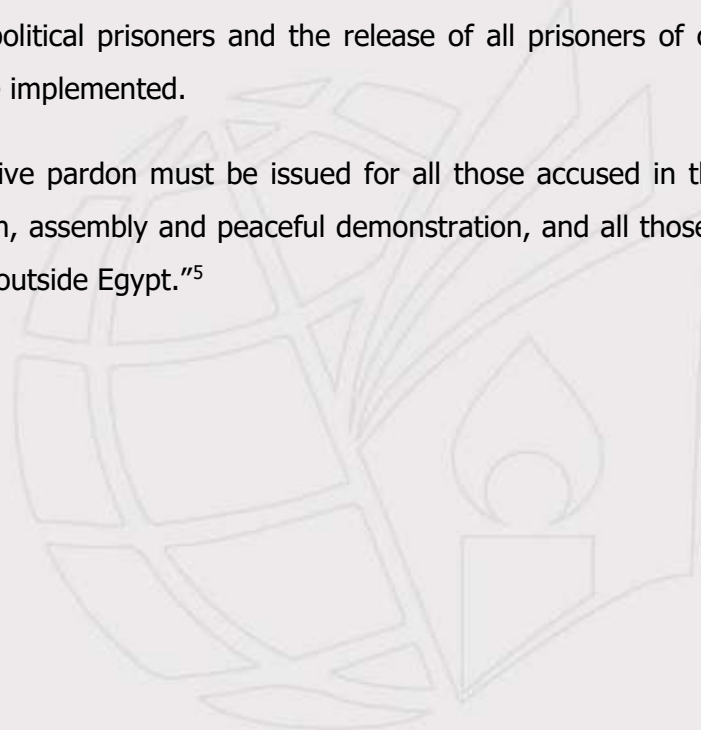
The outcome of the presidential pardon decisions in the second phase has been very limited and slow, not exceeding pardon for twelve people convicted in state security and criminal cases, which is a frustrating outcome in light of the talk about the committee's role in this regard. The committee's second phase, since the end of last April, focused on pretrial detainees, especially with their increasing numbers and the emergence of the phenomenon of rotation of detainees on different cases with the same accusations. On the other hand, four lists of presidential pardons were issued during the first phase of the committee's work, including a large number of convicted political prisoners.

Conclusion

To introduce a fundamental solution for this crisis, a committee should be formed with the task of reviewing the current punitive legislation and all other legislation issued during the past years related to freedoms, most notably the Penal and Criminal Procedure laws, the Terrorism Law, the Protest Law and the Assembly Law, to purify them of all provisions that contradict the right to a fair trial and basic human rights standards.

All proposals made by Egyptian human rights organizations regarding the standards to be set for the release of convicted political prisoners and the release of all prisoners of conscience and remand prisoners must also be implemented.

Finally, a comprehensive pardon must be issued for all those accused in the cases of freedom of opinion and expression, assembly and peaceful demonstration, and all those accused of "spreading false news inside and outside Egypt."⁵



⁵ The views expressed in this article are entirely those of the author's and do not necessarily reflect the views of the Egyptian Institute for Studies