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**Islamic Emirate of Afghanistan**  
**The Supreme Court**  
**General Directorate of the Secretariat**  
**Department of Correspondences**  
**Miscellaneous Matters Unit**

**S/No. 1802**

**Date: June 18, 2023**

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**To The Appellate, Primary, and District Courts of all the provinces of the Islamic Emirate of Afghanistan!**

**May peace, mercy, and blessings be on all of you**

After salutation: Aimed at carrying out order no. (3553), dated 26/9/1444 HD coinciding with 4 April 2023 of the Office of the Leadership of the Islamic Emirate of Afghanistan, High Council of the Supreme Court appointed a delegation for devising Procedures for the release of prisoners entitled to amnesty on the occasion of Eid Holidays and other events based on decision no. 4 of resolution no. (38), dated 20/10/1444 HD coinciding with 28 April 2023. The mentioned delegation developed Procedures for identifying prisoners entitled to amnesty. The said Procedures were discussed in the session of the High Council of the Supreme Court on 25/11/1444 HD (1 June 2023), in respect of which the following directive was issued pursuant to decision 1 of resolution no. (43):

((The said Procedures, developed in the light of the mentioned order of Office of the Leadership, together with the order, shall be sent to all courts. Moreover, the delegations appointed for identifying prisoners entitled to amnesty on the occasion of Eid al-Fitr shall commence working on their delegated task from Sunday, dated 29/11/1444 HD (5 June 2023), and, upon completion of their delegated task, the provinces associated with Central Cassation Division shall, as usual, their lists with the Office of the Chief Justice of the Supreme Court whereas provinces associated with General Cassation Division of South-west zone and Deputy Office of the Judicial Affairs of the Supreme Court shall send their lists to the General Cassation Division of South-

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west zone and Deputy Office of the Judicial Affairs of the Supreme Court. It is noteworthy that the said Deputy Office of the Judicial Affairs shall share with the Office of the Supreme Court the total figures of the prisoners entitled to amnesty so that we can consolidate them with other figures for publishing.))

Therefore, the aforesaid written directive of the High Council of Supreme Court, Order no. (3553), dated 26/9/1444 HD (4 April 2023) of the Office of the Leadership on Developing Procedures for Identifying Prisoners Entitled to Amnesty on the Occasion of Eid Holidays and Other Events, Procedures developed in light of the said order and formulation of the delegations assigned on the occasion of the 1444 HD (2023 AD) Eid al-Fitr were sent attached with this letter containing ( ) pages to all the courts of the Islamic Emirate of Afghanistan and copy apiece of this letter, stated directive as well as relevant documents to the Prisons Correction Center, Ministry of Interior and General Directorate of Intelligence so that the mentioned organizations could notify their administrative units in the center and provinces to introduce their representatives as soon as possible to the Appellate Courts of the relevant province for undertaking their delegated task.

Regards,

(Signature)

Mufti Abdul Rasheed “Saeed”

General Director of the Secretariat

The Supreme Court

(seal)

**Cc:** Office of the Prisons Administration!

**Cc:** Office of the Minister of Interior!

**Cc:** Office of the General Directorate of Intelligence!

**Cc:** Office of the South-West Cassation General Directorate and Office of the Deputy Head of  
Judicial Affairs of the Supreme Court!

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**Mawlawi Saifuddin Taeb**  
**Acting Director of IEA AOP and**  
**Deputy Director for Monitoring and Policy**

**Directive of His Excellency, Amirul Momenin, May Allah Protect Him:**

Checked!

To: The Supreme Court!

May Peace, Mercy, and Blessing of Allah  
Almighty be on You!

Order No. 3553  
Date: 26/9/1444 HD  
Coinciding: 28/1/1402 (4  
April 2023)  
(Signature)

After salutation: Send in brief and/or detailed lists of the prisoners you evaluated and deemed entitled to an amnesty to be released on the occasion of Eid al-Fitr.

Similarly, until Eid al-Adha arrives, develop and share with us Procedures for prisoners who may be entitled to amnesty on the occasion of Eid and other events while excluding those criminals who have been convicted of life imprisonment, convicted with Hadd penalty enforcing crime and/or involved in a crime of murder, kidnapping, and victim's right or imprisoned based on grave political crimes!

**Regards,**

**Outgoing Document Number:** 578  
24-9-1444HD (02 April 2023)

**Office of Leadership**

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## **Islamic Emirate of Afghanistan**

### **The Supreme Court**

# **Procedures for Prisoners and Detainees who are entitled to Amnesty on the occasions of Eid Holidays and other Events**

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**Year: 1444 HD coinciding with 2023 AD**

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## **Procedures for Prisoners and Detainees entitled to Amnesty on the occasions of Eid Holidays and other Events**

### **Preface**

Praise be to Allah and blessings and salutation upon his holy Messenger. We seek refuge with God from Satan, the damned, and, In the name of the most merciful and compassionate: order no. (3553), dated 26/9/1444 HD (4 April 2023) of the Office of the Honorable Leadership of the Islamic Emirate of Afghanistan (IEA), attached with letter no. (9079), dated 27/9/1444 HD (5 April 2023) of the IEA AOP had arrived at this office in which the Supreme Court had been directed as follows:

((Develop and share with us Procedures for prisoners who may be entitled to amnesty on the occasion of Eid Holidays and other events while excluding those criminals who have been convicted with life imprisonment, convicted with Hadd penalty enforcing crime and/or involved in crime of murder, kidnapping and victim's right or imprisoned on the basis of grave political crimes.))

Pursuant to the Office of the Leadership directive, a delegation tasked with developing the said Procedures was appointed based on decision no. 4 of the resolution no. (38), dated 20/10/1444 HD (28 April 2023), adopted in a meeting of the High Council of the Supreme Court. The said Delegation developed Procedures for prisoners and detainees entitled to amnesty as detailed below:

## **Chapter 01**

### **Criteria for releasing male prisoners entitled to amnesty on the occasions of Eid Holidays and other events**

1. Prisoners whose futures are uncertain and whose files are missing despite thorough investigation by relevant authorities will be released if the opposing party has not pursued the matter.
2. Prisoners granted waivers or reconciled by the opposition concerning victims' rights, and deemed eligible for release by the delegation, shall be set free.
3. Prisoners sentenced only to imprisonment by subordinate courts (without corporal punishment) shall be released on bail if their term is complete but their case is still under legal review in higher courts. When deemed appropriate by the Delegation, they may be released without bail. In such cases, the Commission will notify the relevant court in writing.
4. Individuals who are not actually criminals but were arrested due to crimes committed by their relatives (e.g., brother, father, wife) shall be released.
5. Prisoners with incurable diseases that cannot be treated within the prison shall be released following verification by a medical expert.
6. Elderly prisoners showing signs of rehabilitation and deemed deserving of amnesty by the delegation shall be released.
7. Prisoners who have minor children and are the sole caretakers of their households and who have not been convicted to alternative punishments such as Hudood and Qisas, shall be assessed and released as the delegation deems necessary, either with or without bail.
8. Individuals among several prisoners arrested on accusation for one crime who has not pleaded guilty, there is no positive reason establishing their guilt, and individuals detained together with them also plea that they were not their accomplice shall be released from imprisonment.
9. The prisoners whose crime is not severe and whose sign of true correction has become visible in them shall be released from imprisonment, and the prisoners whose crime is severe and time sufficient enough of their imprisonment term

has lapsed shall be released provided the delegation, while keeping in account sign of their correction, consider them to be fit for release.

10. The debtor prisoner whose claim of being poor proves valid and whose relatives have also been questioned shall be released on personal security.
  11. The judge comes to know after the prisoner has remained imprisoned for a certain period of time that the said prisoner was poor and the creditor was absent; the judge shall release him on personal security.
  12. Where the debtor owes property of an orphan or an endowed property or the creditor is absent, the guarantor is necessary.
  13. The debtor prisoner who vows to find money shall be released on pecuniary bail.
  14. The authority of releasing the prisoners arrested on accusation of trafficking narcotics is delegated to the delegation if the said material is small in quantity.
- Note:** decisions nos. 1, 2, and 3 of the resolution no. (30), dated 22/7/1444 HD, of the High Council of the Supreme Court shall be taken into account.
15. The prisoners arrested on accusation of manufacturing narcotics shall be released from imprisonment on the guarantee that they would not go back to the production of these materials.

## **Chapter 2**

### **Criteria for releasing female prisoners entitled to amnesty on the occasions of Eid Holidays and other events**

16. For those female prisoners who have been arrested on accusation of being runaways (fleeing home), who are not spouses of any other individuals, have married the persons with whom they had fled from their home, and their adultery has not proved, the imprisonment they have undergone shall be deemed sufficient and shall be released from imprisonment.
17. Those unmarried female prisoners who have been arrested on accusation of being runaways (fleeing home) and the crime leading to the execution of *Hadd* has not proved against them shall be released from imprisonment provided their release is deemed prudent by the delegation.



18. Those female prisoners who have not run away from their homes and have only been arrested on accusation of illicit connections shall be released from imprisonment if signs of correction become visible in them.
19. Those female prisoners who are weak due to senility and signs of correction become visible in them and have been identified by the delegation as entitled to amnesty shall be released from imprisonment.
20. Those female prisoners with infant babies whose crime has not been proven shall be released from imprisonment.
21. In respect of female prisoners whose case is adultery, but it should be dismissing *Hadd*, and are imprisoned in State's right, it should be checked if they were not convicted of alternative punishment to *Hadd* (imprisonment) and that signs of correction have become visible in them, such female inmates shall be released from imprisonment.

### **Chapter 03**

#### **Criteria for releasing juvenile detainees entitled to amnesty on the occasions of Eid Holidays and other events**

22. Those juvenile detainees (according to the preferred statement of Hanafi Jurisprudence) who are imprisoned on account of State's rights, i.e., in case of homosexuality, and it has proved before court they have been forced to engage in act of homosexuality, shall be released from imprisonment and those juvenile detainees whose act of homosexuality had not taken place by coercion or have repeatedly engaged in act of homosexuality, shall be kept in Correctional Center till their correction.
23. Those juvenile detainees who have been arrested on accusation of adultery shall be kept in a correctional center till their correction.
24. **A:** Those juvenile detainees who have been arrested due to various crimes like (theft, pickpocketing, murder, etc.) and the said act is not recurring, the opposite party has granted waiver in respect of the case of victim's right or has

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reconciled with him and/or the opposing party has quit its claim, shall be released on bail.

**B:** Where their crime is recurring, and their opposite party has not granted a waiver, pardoned, or reconciled with him, such detainee shall be kept in a correctional center till his correction.

25. Instruction shall be sought from the Office of the Supreme Court in respect of prisoners, if there are any, with no specific provisions in the Procedures.

26. Files of prisoners released from imprisonment, pursuant to the criteria devised in this Procedure, shall be preserved.

27. Procedure for Prisoners and Detainees Entitled to Amnesty and Commutation, developed in (3) Chapters and (27) Articles, shall be deemed enforced following approval by the Office of the Leadership of the IEA.

Sheikh Jalaluddin “Haqqani”  
Head of Public Security Division of  
Central Cassation of the Supreme Court  
(Signature)

Mufti Atiqullah “Darvesh”  
Head of General Penal Division of the  
Central Cassation of the Supreme Court  
(Signature)

Sheik Abdul Malik “Haqqani”  
Deputy for Administrative Affairs  
The Supreme Court  
(Signature)