



SCHOOL OF LAW

LLM PROGRAM IN HUMAN RIGHTS AND JUSTICE STUDIES

**THE IMPLEMENTATION OF PARDON IN SOUTHERN NATIONS,
NATIONALITIES AND PEOPLES' REGIONAL STATE: LAW AND PRACTICE**

LLM THESIS

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ARBA MINCH

ETHIOPIA

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**A THESIS SUBMITTED TO THE SCHOOL OF LAW ARBAMINCH UNIVERSITY,
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REQUIREMENTS FOR THE MASTERS DEGREE IN HUMAN RIGHTS AND
JUSTICE STUDY**

**SEPTEMBER, 2021
ARBAMINCH, ETHIOPIA**

Declaration

I hereby declare that this LLM thesis is my original work and has not been presented for a degree in any other university, and all sources of material used for this thesis have been duly acknowledged.

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This is to certify that the thesis entitled 'The Implementation of Pardon In Southern Nations, Nationalities And Peoples' Regional State: Law And Practice' submitted in partial fulfillment of the requirements for the degree of **Master's** with specialization in **Human Rights and Justice Studies**, the Graduate Program of the **School of Law**, and has been carried out by Addisu Solomon Id. No PRLS/002/12, under my supervision. Therefore I recommend that the student has fulfilled the requirements and hence hereby can submit the thesis to the department for defense.

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Approved by: We the examiners' board approve that this thesis has passed through the defense and review process

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Dedication

This work is dedicated to my wife Geni and my child Abigiya without their love, care and support; this would not have been possible.

List of Acronyms

AMU	Arba Minch university
Art.	Article
B.C	Before Christ
CJS	Criminal Justice System
E.C	Ethiopian calendar
FDRE	Federal Democratic Republic of Ethiopia
FDRE Constitution	constitution of the Federal Democratic Republic of Ethiopia
FDRE criminal code	Federal Democratic Republic of Ethiopia Criminal Code
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
E.C	Ethiopian Calendar
No.	Number
SNNPRS	Southern Nations Nationalities and Peoples Regional State
SNNPRS Constitution	Southern Nations Nationalities and Peoples Regional State constitution
Vol	Volume

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Abstract

Pardon is a government decision that grants a person exemption from all or part of the legal consequences of a criminal conviction. And the main goals of the pardon are to protect the interests of the public, governments and offenders by reintegrating offenders into communities and making them productive citizens knowing that they have repented and rehabilitated themselves. Likewise, in the Ethiopian criminal justice policy clearly provided that in a system based on equality and transparency the prisoner's behavior changes during their time in prison, productivity effort, good ethics and other efforts, the offenders will benefit of pardon.

This thesis explored the current law and practices of pardon systems in southern regional state of Ethiopia criminal justice system. With respect to laws the SNNPRS pardon regulation are contradicted from the SNNPRS constitution and the object of pardon. The SNNPRS pardon regulation more interested in punishing the offender. The main justification behind pardon is the need to rehabilitate and reform criminals. Because simply denying the pardon would discourage the prisoners to improve his/her behavior in prison and also it is contrary to the objectives of pardon. Furthermore, with regard to practice the study found that even though there are stipulated rules and procedures are available in SNNPRS for release of criminal offenders on pardon, should taking into account the offender's dangerous disposition, however, in practice the offender's release on pardon he/she has not been rehabilitated properly. Moreover, the offender granted pardon the victim or a victim's family member receive no substantial benefit to improve their condition and do nothing to help the victim rehabilitate and repair the damage caused by crime. In this regard, the study found that under the pardon laws, the main problem is that, lack of a system in place for prisoners to reach a settlement with the victim or his family.

Accordingly, Based on the findings, the writer come up with the conclusion that for the real implementation of pardon in criminal justice system, the SNNPRS pardon laws should be amended in light with the objectives of pardon and SNNPRS constitution. The researcher also recommends that the prison administration must work with the justice sectors and elders to reconcile with the victim before the prisoner granted pardoned.

Keywords: *pardon, chief Executive, pardon board, pardon recruit committee, prisoner and Rehabilitation*

CHAPTER ONE

GENERAL FRAMEWORK OF THE RESEARCH

1.1 Background of the Study

Almost all modern legal systems grant and recognize pardon.¹ As a concept, pardon is not only a legal act, but also often applies to different religious traditions.² The sinner is punished for repenting or repenting of his actions. Pardons can be viewed as an act of forgiveness exercised by the president.³ A pardon is a government decision that allows a person to relieve some or all of the legal consequences of a criminal conviction.⁴ In addition, the black law dictionary defined as a pardon is an act or instance of an official cancellation of punishment or other legal consequences granted by the executives.⁵

Ethiopia's criminal justice system also recognizes the idea of pardon, which is the constitutional power granted to the president to exercise that power for federal criminal matters,⁶ and the chief executive of a State in respect of State offences.⁷

The main purpose of pardons is to ensure the interests of citizens, government and criminals, to allow criminals to reintegrate into society, and to make them productive citizens after confirming

¹ Zacchaeus Adangor, *The Presidential Pardon Granted Chief: Time To Revisit The President's Pardoning Power Under Section 175 Of The Constitution Of The Federal Republic Of Nigeria, 1999 (As Amended)*, vol.39, (2015), p. 178 & also René Levy, *Pardons and Amnesties as Policy Instruments in Contemporary France*, Vol. 36, No. 1, (2007), p.551, also Daniel Pascoe & Andrew Novak, *Executive Clemency Comparative and Empirical Perspectives: A Ubiquitous Part of the Constitutional Scheme* (2021), p. 14

² Tamar Avaliani & Giorgi Chitidze, *THE POWER OF PARDON THE GEORGIAN MODEL AND INTERNATIONAL EXPERIENCE*, (2016) p.6

³ Marshet Tadesse Tessema, *PROSECUTION OF POLITICIDE IN ETHIOPIA, THE RED TERROR TRIALS*, (2018), p. 231 & 232 & Parul Kumar, *The Executive Power to Pardon: Dilemmas of the Constitutional Discourse*, NUJS LAW REVIEW (2009) p.10 & also See Imo Udofa, *the Abuse of Presidential Power of Pardon and the Need for Restraints*, Beijing Law Review, (2018), p. 113

⁴ Jennifer Scheweppe, *Pardon Me: The Contemporary Application of The Prerogative of Mercy*, New Series, Vol. 49 (2013), p. 212

⁵ Brian A. Garner, *Black's Law Dictionary Eight Edition*, 8th ed.2004

⁶ Procedure of Granting and Executing Pardon Proclamation, Proclamation No. 840/2014, Federal Negarit Gazette of the Federal Democratic Republic of Ethiopia, 20th year No 68 Addis Ababa 21 August 2014 (Hereinafter FDRE pardon Proclamation No. 840/2014), Art 5 & The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No.1/1995, Federal Negarit Gazette of the Federal Democratic Republic of Ethiopia, 1st year No 1.1995 (Hereinafter FDRE Constitution), Art 71(7)

⁷ Southern Nation, Nationalities and Peoples' Regional State Amended Procedure of Granting Pardon Proclamation No. 157/2015, Debub Negarit Gazeta of The Southern Nations, Nationalities and Peoples Regional State, 21 year No 7 hawassa February 12, 2015 (Hereinafter SNNPRS pardon Proclamation No. 157/2015), art. 4

that they have repented and reformed.⁸ In addition, the criminal justice policy clearly stipulates that in a system based on equality and transparency the prisoner's behavior changes during their time in prison, productivity effort, good ethics and other efforts the offenders will benefit or grant pardon.⁹

Pardon must be based on public welfare and the rule of law, not religious, political or cultural affinity. The ultimate goal of pardon should be to create a better society. The powers granted to the president or the chief executive is not only for the benefit of criminals, but also for the benefit of society.

Ethiopian law clearly stipulates that, unless the law provides otherwise, the competent authority has the discretion to decide on pardons, and the penalties may be wholly or partially reduced by pardons or converted into lesser penalties, before the end of the sentence.¹⁰ From the above stated we can infer that the pardon is a reduction of the penalty or the change from a severe penalty to a lighter penalty.

Pardon is a privilege granted to convicted persons; it is not a right to which they are entitled and the law stipulates the procedures that someone must follow when seeking pardon, in principle, if a convicted person wants to be pardoned, he must lodge a petition of pardon to the board in accordance with the law, and the petition can be lodged at any time after the judgment of punishments.¹¹

Furthermore, Article 20 of SNNPRS proclamation No.157/2015 stipulate that before granting the pardon, the competent authority must take into account the dangerous disposition of the petitioner, the seriousness of the crime and the confession and repentance of the petitioner or his efforts to reconcile with the victim or his family and compensate them.¹²

This thesis tries to explore the current law and practices of pardon systems in southern regional state of Ethiopia.

⁸ FDRE Pardon Proclamation No. 840/2014, art 3 and SNNPRS pardon Proclamation No. 157/2015, Preamble.

⁹ Section 5.3, The Criminal Justice Policy of the Federal Democratic Republic of Ethiopia, 2011, p.47

¹⁰ Criminal Code of The Federal Democratic Republic Of Ethiopia, Proclamation No. 414/2004, May 2005, Art 229 (Hereinafter FDRE criminal code), & Proclamation No. 840/2014, Art 2(1) & Proclamation No. 157/2015, art 2(6)

¹¹ Marshet Tadesse Tessema, *PROSECUTION OF POLITICIDE IN ETHIOPIA, THE RED TERROR TRIALS*, (2018), p. 232

¹² Proclamation No. 157/2015, art 20

1.2 The Research Problem

The goal of criminal law is to maintain the peace and security of society.¹³ Criminal law not only tries to punish offenders, but also strengthen social values and expectation. It must be able to determine the moral characteristics of the conduct and exempt certain accused of crimes from criminal responsibility and the moral basis of punishment.¹⁴ Nowadays it is believed that in the interests of justice it may sometimes be necessary to resort to different measures, namely suspension instead of execution.¹⁵ The main reason for the suspension of punishment is the need to reform offenders.¹⁶ This helps criminals to lead a peaceful life and shows that criminal law assigns the main place for their rehabilitation.¹⁷ When it comes to reforming offenders, instead of being made to suffer while in prison, allowing them to take vocational training and participate in academic education will help them get out of prison.¹⁸

According to Article 20 of SNNPRS proclamation No.157/2015 stipulate that before granting the pardon, the competent authority must take into account the dangerous disposition of the petitioner, the seriousness of the crime and the confession and repentance of the petitioner or his efforts reconciliation with the victim or his family and compensate them.¹⁹ The researcher Preliminary data gathering from the SNNPRS board of pardon, Halaba and hosanna prison pardon recruiting committee members reveals that offender release on pardon without take into account the dangerous disposition of the petitioner and the offender granted pardon the victim or his family did not obtain significant benefits to reduce his victimization, nor did the offender take any action to help the victim recover and repair the harm caused by the crime. Furthermore, with respect to SNNPRS pardon regulation it creates dilemma among scholars, pardon board and pardon recruiting committee. This research will assess whether the SNNPRS pardon regulation consistence with the SNNPRS constitution and the objectives of pardon or not, thus, needs further investigations. Therefore, addressing issues related with the implementation of pardon in

¹³ FDRE criminal code art 1

¹⁴ George Mousourakis, *Distinguishing between justifications and excuses in the criminal law*, (1998), p.166

¹⁵ Shewit Kahsay, *Community-Based Rehabilitation of Offenders: An Overview of Probation and Parole in Ethiopia*, vol.1, (2017), p. 23

¹⁶ Shewit Kahsay, *Community-Based Rehabilitation of Offenders: An Overview of Probation and Parole in Ethiopia*, vol.1, (2017), p. 23 and also Dejene Girma & Mekonnen Feleke, *Sentencing and Execution*, (teaching material), (2009), p. 149

¹⁷ FDRE criminal code preface

¹⁸ FDRE criminal code preface

¹⁹ See Proclamation No. 157/2015, art 20

SNNPRS; law and practice is extremely essential. This thesis tries to show evaluating implementation of pardon in SNNPRS law and practice.

1.3 Objective of the Research

1.3.1 General objective

The general objective of this study is to evaluate the existing legal, institutional and practical problems of granting pardon in southern regions of Ethiopia in the view of domestic legislation.

1.3.2 Specific objectives

This study has the following specific objectives:

- Evaluate the work of the institutions that are working on granting and executing pardons
- Evaluate SNNPRS pardon regulation in light with SNNPRS constitution and the object of pardon
- Analyze and evaluate the extent of power to pardon by the chief executive under SNNPRS pardon proclamation
- Ensure the chief executive, Board of pardon and pardon recruiting Committee at zone, and special woreda in SNNPRS follow rule and regulation when making decision and recruiting the perpetrator.

1.4. Research Questions:-

1.4.1. Central research question

How far the Procedure of Granting and Executing Pardon legislations respected in south nations, nationalities and peoples' regional state of Ethiopia?

1.4.2. Specific research questions

- ❖ Does the SNNPRS pardon regulation contrary to the SNNPRS constitution and the object of the pardon?
- ❖ What are the limitations of pardoning power in SNNPRS? And what are the problems?
- ❖ What looks likes the selection/recruitment of pardon? And what are the problems?
- ❖ What are the monitoring mechanisms of reintegrating criminal offender in to the community after granting pardon?

1.5. Significance of the study

The study as stated above is to examine and assess Granting and Executing Pardons are realized in practice and it helps to enhance the knowledge of readers on the overall nature and significance of Granting and Executing Pardons to individuals and states. Besides, it helps to draw the attention of policy makers, and executive organs and concerned body for the realization of Granting and Executing Pardons in Ethiopia and make it their areas of concern in discharging their duties. Moreover, the study assessed the social and economic benefits of pardon if it is managed correctly. Furthermore, this study helps to serve as base for further research in this area of law in Ethiopia.

1.6. Literature review of the study

Different literature discussed the issue of pardon. Most of them are journal articles and focused on necessary to amend pardon proclamations and the Abuse of Presidential Power of Pardon. Among these works, the researcher reviewed essential journal article a little bit related topic with pardons.

The first one is a research done in 2016 by Belayneh Admasu & Alemu Dagnaw, with the title of “pardon laws and its implementation at Bahir Dar detention center” The main objectives of the study is that to examine the procedure of granting pardon system of Bahir Dar detention center in light of FDRE and Amhara regional state laws.²⁰ The writers in this article suggests and argues that the objective of pardon stipulated under Amhara regional state pardon proclamation seam’s narrow and its needs compatible to the federal pardon proclamation. Besides, the authors suggest petition for pardon submitted by his/her spouse or through his close relative its better submit to the board of pardon than chief executive.

The researcher studies different from my research when we see the researcher studies specific issues such as pardon laws and its implementation at Bahir Dar detention center. However, they did not give the whole picture of the implementation of pardon, the writers simply rise the issue with regard to the objective of pardon must includes offenders interest and its necessary to amend Amhara regional state pardon proclamations in compatible to the federal pardon proclamation.

²⁰ See Belayneh Admasu & Alemu Dagnaw,(2016), supra note 13, p. 297 (Translation mine).

The second journal article a little bit related topic done 2018, by Imo Udofa with the title “The Abuse of Presidential Power of Pardon and the Need for Restraints” The main objectives of the study are examined the nature and application of presidential power of pardon in Nigeria, the United States of America, India and South Africa, amongst others. The power of pardon is virtually unfettered and unchecked by formal constraints in most jurisdictions, thereby rendering it susceptible to abuse. However, in some jurisdiction there are conventionally specified criteria which guide the grant of pardon.²¹

However the discussions in literatures do not cover the issue of the implementation of pardon in south nations, nationalities and peoples’ regional state: law and practice. Therefore this paper goes through the gaps between law and practice of southern region of granting pardon system.

1.7. Research Methodology

The approach adopted to carry out this Research is a “qualitative” one.²² This will enable the researcher to provide analytical tools and help to evaluate the level of an implementation of pardon systems in SNNPRS. In addition, the reason why choosing qualitative data collection method is that the nature of this study and it gives in-depth understanding of the research participant and to get in-depth opinion from research participant. Furthermore, most of the data are in the form of textual and documentary investigation, and its focus with meanings and the way people understand things makes it the most appropriate methodological approach to this research.

1.7.1. Method and Instruments of Data Collection

In order to achieve the purposes of the research, the following methods of data collection have been used. The study built with both primary and secondary sources of data. The primary sources include interviews, focus group discussion (FGD) and physical observations.

²¹ See Imo Udofa, *the Abuse of Presidential Power of Pardon and the Need for Restraints*, Beijing Law Review, (2018), p. 113-131

²² See John W. Creswell, *RESEARCH DESIGN: QUALITATIVE, QUANTITATIVE, AND MIXED METHODS APPROACHES*, 4th ed.2014, p. 232

Interview

In this study the researcher used interviews as method of data collection, because it helped to investigate or to know about people`s opinion, feelings and experiences in detailed and helped to the researcher got detailed information.

In particular, semi-structured interviews were employed to explore the views of the selected informants on the issue.²³ And the reason why Conducted a semi-structured interview is that even though the researcher prepared pre determine question, the order can be modified or add depending on the perception of the research participant, the researcher may modify some interview question²⁴ and this gave the researcher freedom to raise questions depending on the circumstance of the situation.²⁵

The respondents are legal professionals, practitioners and non lawyers. The researcher purposively interviewed informants based on up to the criterion of saturation.

Focused Group Discussion

In addition to interview, the researcher undertook focused group discussion with selected members of the board of pardon and pardon recruiting committee. It is also extremely efficient to get more people within a given period compared to individual interviewees and important to obtain data, that would not otherwise get in case of an individual interview. So, it helped to get answer for that need detail discussion and elaboration.²⁶ The participant`s numerical composition between six to ten.²⁷ The researcher conducted five focus group discussions from the selected zone pardon recruiting committee.²⁸ Selection of FGD members in the discussion were based on the compositions of the recruiting committee.²⁹

²³ Endalew Lijalem Enyew, *A MOVE TOWARDS RESTORATIVE JUSTICE IN ETHIOPIA: ACCOMMODATING CUSTOMARY DISPUTE RESOLUTION MECHANISMS WITH THE CRIMINAL JUSTICE SYSTEM*, (2013) p. 11

²⁴ Nega E. Mekonnen(Asst. Professor), *Advanced Research Methodology*, Lecture delivered at School of law, Arba Minch University,(2019)

²⁵ Roger Sapsford and Victor Jupp, *DATA COLLECTION AND ANALYSIS*, 2nd edition (2006) P.95

²⁶ Nega E. Mekonnen(Asst. Professor), (2019) supra note 24

²⁷ *Ibid*

²⁸ The researcher conducted five focus group discussions at Kulito prison institution, Wolaita prison institution, Hosanna prison institution, Werabe prison institution and Durame prison institutions.

²⁹ The in article 5 of the SNNPRS pardon regulation indicates that structure of the pardon recruit committee and lists the member of the committee and the regulation lists committee has nine members

Sampling techniques

Sampling techniques used purposive sampling techniques to choose my informants, because the personal judgment of the researcher, if the researcher believes that some unit are more appropriate than the others,³⁰ this technique helped to select the targeted or the right persons based on their experience, position.³¹ The respondents are legal professionals, practitioners and non lawyers. The researcher selected appropriate persons based on their experience, position from the head of SNNPRS Board of pardon, SNNPRS pardon recruiting Committee, SNNPRS general attorney and head of SNNPRS Prison Administration Commission, lawyers to clarify and provide the SNNPRS experience in areas of granting pardon. The researcher used the respondents` prior profile and academic work, and recommendations of their respective heads as their heads are presumed to have more opportunity and understanding to know their staffs` profile.

Document Review

The secondary sources of data will have different source materials such as books, journals, legal instruments, the FDRE constitution, Ethiopian criminal code, Procedure of Granting and Executing Pardon Proclamations and regulation of FDRE and SNNPRS amended Procedure of Granting Pardon Proclamations, regulations and directives, Ethiopian criminal procedure code, the draft criminal procedures codes and Analysed some decision of persons granted pardon in SNNPRS and Reviewed relevant literature to compile in a form of an overview of what is currently known about pardon in general, and to critically assess the practices experienced at the international, regional and domestic level.

1.7.3. Data analysis

The researcher used content data analysis method. This method of analysis usually used to analyse responses from interviewees and helped to the researcher analyses documented information in the form of texts.³² The data analyzed by interpreting interview, Visual analysis, Focus Group Discussion and Analysis of documents and materials on implementation of pardon in SNNPRS. The information received from the members of the SNNPRS general attorney,

³⁰ Nega E. Mekonnen(Asst. Professor), (2019) supra note 24

³¹ Endalew Lijalem Enyew., (2013); supra note 23, p. 11

³² <https://humansofdata.atlan.com/2018/09/qualitative-quantitative-data-analysis-methods/>

SNNPRS Board of pardon, SNNPRS pardon recruiting Committee and staffs of SNNPRS Prison Administration Commission in relation to implementation of pardon by comparing and contrasting with the laws and practice to this regards. This is mainly done by making references to the available legislative and policy documents relevant to the issue under investigation, and other research works and relevant materials about the issue or related issues.

1.8. Limitations of the Study

This research suffered for certain constraints during the undertaking of the research is lack of relevant materials on the subject matter under the Ethiopian legal system. Besides, it is difficult to find the SNNPRS chief executive.

1.9. Scope of the study

The writer conducted SNNPRS board of pardon. In SNNPRS there are 21 prison centers; in the reflection seven prison institutions were analyzed.³³ Prison institutions were non-randomly selected purposefully selected sites,³⁴ this technique helped to select the targeted site;³⁵ those are: - Arba Minch, Wolaita, Hosanna, Durame, Werabe, Dilla and Halaba prison institutions and the writer also conducted SNNPRS board of pardon. This study examines the SNNPRS board of pardon and seven prison institution day to day activities in law and practice.

1.10 Ethical consideration

In collecting data and information, the study will take due care to get the permission of then participants of the research and properly preserves and responds appropriately to avoid any possible ethical problem issues. Further, in the interpretation of data, the researcher will provide objective and accurate account of the information and be free of any kind of subjective bias.

In line with this, the researcher will from the very start inform participants about goal and objective of the study. The respondents will be required to participate only on voluntary basis and the researcher will inform that they should feel free not to answer any question that they are

³³ In the reflection prison institution at Arba Minch prison institution, Kulito prison institution, Wolaita prison institution, Hosanna prison institution, Dilla, Werabe and Durame prison institutions.

³⁴ Nega Ewunetie Mekonnen, *Teaching Legal Research Methods in the LL.B. Programme of Ethiopian Law Schools: The Need to Revisit Some Key Points*, vol. 7. No.2, (2017), page 284

³⁵ Endalew Lijalem Enyew., (2013); supra note 23, p. 11

not comfortable with, however, the importance of answering all the questions would be emphasized.

1.11 organization of the paper

This research work comprises four chapters which are divided into sections and sub sections. Chapter 1 it includes background of the study, Statement of the Research Problem, Objective of the Research, Research Questions, Significance of the study, Literature review of the study, Research Methodology, Limitations of the Study, Scope of the study and Ethical consideration of the research. Chapter 2 addresses the theoretical and conceptual frame work of Pardons system. It will include the legal definition and terminology of pardon and historical development of Granting and Executing Pardons system, the pardoning power in global perspective, advantages and disadvantages of pardon and the Grounds of Pardon. Chapter 3 explores some of the facts related to pardons situations in Ethiopia; with emphasis given to some of the Procedure of Granting Pardons recognized under the FDRE Constitution, FDRE criminal code, draft criminal procedure code, FDRE and SNNPRS Procedure of Granting Pardon Proclamation and procedure and pardoning system in SNNPRS, rationales for pardon and no. of prisoner benefiting from pardon in SNNPRS prison institution from 1999 E.C to 2013 E.C. besides addresses the implementation of pardon in SNNPRS law and practice with special emphasize data presentation and data analysis. Finally, chapter 4 a conclusion and recommendation chapter attempts to draw some conclusions followed by some of recommendations addressed to government, and to anybody who may be concerned.

CHAPTER TWO

CONCEPTUAL AND THEORETICAL FRAMEWORK OF PARDON

2.1. Introduction

As long as people have been thinking about imprisonment, they have been thinking about the released from imprisonment, and the concept of pardon is the creation of old age and in that times where the omnipotent monarch has the power to punish or exempt from any punishment, the link between punishment and pardon is as old as Hammurabi's law, in which the prescription of severe punishment was balanced by rules to restrict revenge and specify extenuating circumstances.³⁶ It is believed that pardon is a religious origin when people repent of their sin or wrongs and a way of pleading for pardon or mercy for their creator to forgive them and it is a system of an opportunity to repent and not commit a sin again,³⁷ the most famous, the execution of Jesus was accompanied by executive pardon for Barrabas, from a theological point of view, the concept of pardon emanates from ideas of mercy, grace, and forgiveness, to be pardoned by God is to be forgiven for one's sins and violate God's will, and a means to be atoned for those transgressions and although God wrote down personal sins, He also forgave them, Pardon is a new opportunity and this new opportunity helps to learn from the mistakes of the past and establish a new relationship with God now and in the future.³⁸

The Power of pardon exists to avoid injustice arising from harsh, unjust laws or that result in unfair trials; and the need to reform offenders; for this reason, it has always been recognized that it is necessary to delegate this power to institutions other than the judicial one.³⁹

In all civilized and advanced societies, pardon is considered as an act of grace and it is the oldest form of release procedure, and has been preserved in vivid form in various States, except China.⁴⁰

³⁶ Kathleen Dean Moore, *PARDONS: JUSTICE, MERCY, AND THE PUBLIC INTEREST*, (1989), p.15. See also J.P. RAI, *Exercise of Pardoning Power in India: Emerging Challenges*, Vol XII, No. 2, (2014), p.1. also Julian H. Wright, Jr., *Pardon in the Hebrew Bible and Modern Law*, vol. 3, No. 1, (1993) p. 6

³⁷ Belayneh Admasu & Alemu Dagnaw, (2016) supra note 20, p.298&299, translation mine

³⁸ Julian H. Wright, Jr., supra note 36, p.6

³⁹ J.P. RAI, (2014), supra note 36, p.2

⁴⁰ Leslie Sebba, *The Pardoning Power A World Survey*, volume 68, issue 1, (1997), p.83

In the past, pardons used to be made unannounced to the public, at the same time, much less recited the reasons for supporting pardons, Recently, pardons were considered official government actions and were publicly announced at the time of issued.⁴¹

The executive branch has the power to grant pardon,⁴² the pardon will not be granted to anyone, but will be granted after the court has made a final decision and confirm that they have repented and corrected their behavior.⁴³ The pardon makes invalidate of a sanction imposed by the courts and this is considered the effect and manifestation of pardon.⁴⁴ Therefore, one the one hand after the pardoned person is released from prison, they will have the opportunity to move freely, the sentence will be annulled, they will be able to participate in any activity, and the possibility of sanction may be terminated or eliminated and on the other hand, the refusal of forgiveness can extend the punishment.⁴⁵

For the classic exposition of the law related to pardon is to be found in *Ex parte Philip Grossman* where Chief Justice Taft pointed out:

*“Executive pardon exists to afford relief from undue harshness or evident mistake in the operation or the enforcement of the criminal law and the administration of justice by the courts is not necessarily always wise or certainly considerate of circumstances which may properly mitigate guilt, to afford a remedy, it has always been thought essential in popular governments, as well as in monarchies, to vest in some other authority than the courts power to ameliorate or avoid particular criminal judgments.”*⁴⁶

Kathleen Dean Moore argues that an executive cannot simply pardon for any reason or without reason, but, the executive must pardon must only do “good and sufficient reasons” so in relation to the offender's crime and the proportionality of the offender's punishment, and cannot be

⁴¹ Daniel T. Kobil, Should Clemency Decisions Be Subject to a Reasons Requirement Federal Sentencing Reporter, VOL. 13, NO. 3–4,(2000–2001), p.150

⁴² Lawrence F. Travis III ,INTRODUCTION TO CRIMINAL JUSTICE, Sixth Edition, (2008), p.44

⁴³ FDRE pardon proclamation article 3, and also Belayneh Admasu & Alemu Dagnaw, (2016), supra note 30, p.300&301

⁴⁴ FDRE pardon proclamation article 22 and SNNPRS pardon proclamation article 22 and also Belayneh Admasu & Alemu Dagnaw, (2016), supra note 20, p.300&301

⁴⁵ Henry L. Chambers Jr., *The President as Spiritual Leader: Pardons, Punishment, Forgiveness, Mercy, and Justice*, (2016), p.77 &78. See also Belayneh Admasu & Alemu Dagnaw, (2016), supra note 20, p.301

⁴⁶ J.P. RAI, (2014),supra note 36, p.2

simply because the executive wants to give it, and it must be morally reasonable, and she also argues that in an imperfect criminal justice system, criminals cannot be always get what they deserve morally or legally, so they must be pardon, either he released or his sentence was commuted.⁴⁷

There are several types of pardons; full or unconditional pardon, partial and conditional pardon; criminals who are unconditional pardoned just leave the prison as if they have never been tried and sentenced, and then unconditionally release the criminals, and when we say that partial it can mitigate some (but not all) of the legal consequences of the conviction of the offender, and when it can be conditional, dependent on the performance or non-performance of acts specified by the executive.⁴⁸ In other words an unconditional or full pardon can unconditionally release the offender; and a conditional pardon includes conditions that must occur before the pardon takes effect, and a partial pardon exempts a person from partial but not all legal consequences or criminal judgments.

When we see our SNNPRS laws under article 22 of SNNPRS pardon proclamation unless the pardon decision expressed otherwise, the pardon shall make ineffective all penalties imposed by court however, the decision on pardon may not invalidate civil liabilities emanating from the criminal decision. And also unless the pardon decision expressed otherwise, punishment served before the decision of pardon shall remain effective.⁴⁹

In light of the above stated article, there are different types of pardon.

- The first type of pardon is a full pardon, in which the prisoner is released from prison and the pardon is revoked. Pardon shall not cancel the sentence the entry of which shall remain in the judgment register of the criminal and continues to produce its other effects and the offender is charged with another crime, it may be considered a precaution or factors of aggravation and also not invalidate civil liabilities emanating from the criminal decision. Therefore, full pardon is the only way to release a prisoner completely from prison.

⁴⁷ Chad Flanders, *Pardons and the Theory of the "Second-Best"* vol. 65, issue 5 (2013), p. 9

⁴⁸ *Executive Pardoning Power*, The Virginia Law Register, Vol. 4, No. 1 (1918), p.3. <http://www.jstor.org/stable/1107337>. (last accessed: 05/06/2021), also Kathleen Dean Moore, (1989), supra note 28, p.5

⁴⁹ SNNPRS pardon proclamation art. 22

- The second type is a partial pardon, in which case a partial pardon exonerates a person from some but not all of the legal consequences or sentence for a crime.⁵⁰
- The third type is commutation, in which case a substitution of a greater punishment with a lesser one.⁵¹ A commutation does not relieve the offender of any legal consequence of the underlying crime, but only adjusts the punishment to be imposed.⁵² The most common form of a commutation is the substitution of a lesser sentence of the same character for the punishment imposed by a court, such as the reduction in the length of a sentence of imprisonment.⁵³ However, commutations can also involve a change in the type of sentence itself, such as replacing a sentence of death with a sentence of life imprisonment.⁵⁴
- The fourth type of pardon is conditional pardon, in a conditional pardon in order to pardon to be effective and legal, the precedent conditions must be fulfilled before the pardon is reached to the prisoners or the condition subsequent must be met the conditions after the pardon is approved. In this regard when we see SNNPRS pardon proclamation art. 23(2) a pardon shall become null and void if the condition specified for granting the pardons has been violated.⁵⁵

The pardon represents the decision of the president or the chief executive of the government, by which the names of certain persons are exempted from prosecution, totally or partially exempt from punishment, and their punishment is replaced by a more lenient sentence or suspended sentence.⁵⁶

The pardon is a mechanism to manage criminal punishment. On the one hand, it is the goal of modern criminal law and punishment, especially repentance, reform and reform of criminals and

⁵⁰ <https://www.britannica.com/topic/pardon> (last visited on 3/8/2021)

⁵¹ Jody c. Baumgartner and Mark H. Morris, *Presidential Pardon Unbound: A Comparative Look at Presidential Pardon*, (2001), p.4

⁵² *AN ANALYSIS OF THE IMPLEMENTATION OF THE 2014 CLEMENCY INITIATIVE*, United States Sentencing Commission, (2017), p. 4

⁵³ FDRE constitution art.28(2)

⁵⁴ *AN ANALYSIS OF THE IMPLEMENTATION OF THE 2014 CLEMENCY INITIATIVE*, United States Sentencing Commission, (2017), p. 4

⁵⁵ SNNPRS pardon proclamation art. 23(2)

⁵⁶ FDRE pardon proclamation article 2(1), art. 5 and SNNPRS pardon proclamation article 2(6), art. 4 and also Betim Musliu and Adem Gashi, *pardon in Kosovo, An analysis of the implementation of pardon and conditional release*, (2012), p.6, also FDRE Proclamation No. 840/2014), Art 2(1), Art 5, also SNNPRS Proclamation No. 157/2015, art. 2(6), Art 4

on the other hand, it is to protect the interests of the public, government and criminals it should be achieved. This idea of pardon is embedded in most modern criminal justice systems, as well as the Ethiopian criminal justice system.

Therefore, in Ethiopia, the power of pardon is a constitutional power granted to the president by the constitution, which can be exercised for federal crimes,⁵⁷ while for state crimes it is granted to the chief executive of the state.⁵⁸

2.2. Definition of Pardon

The word pardon is first found in early French law and derived from the Latin term *perdonare* meaning “to grant freely”, implying a gift from the sovereign, it has thus come to be associated with a somewhat personal concession by a head of state to the perpetrator of an offense, in mitigation or remission of the full sentence that he has merited.⁵⁹

In addition, Worcester defines pardon as “the remission of a fault or crime, or of a penalty; forgiveness; absolution; acquittal, and likely,” and also Webster defines pardon as, “Forgiveness; the release of an offence, or of the obligation of an offender to suffer a sentence, we seek the pardon for sins, transgressions, and crimes and pardon is a remission of a punishment.”⁶⁰

Furthermore, black’s law dictionary defined as pardon is “the act or an instance of officially cancel punishments or other legal consequences of crimes, and granted by the chief executive of a government.⁶¹ The president has the exclusive power to grant pardons for federal crimes,⁶² while the chief executive has the power to grant pardons for state crimes.”⁶³ From the definition we can infer that pardon can cancel the sanctions of a crime, and it is an administrative action taken by the executive of the government that partially or completely remits the punishment for a crime.

In *US v Wilson*, the Chief Justice of the United States Supreme Court Marshall defined the

⁵⁷ FDRE Constitution, Art 71(7), & FDRE pardon Proclamation No. 840/2014), Art 5

⁵⁸ SNNPRS Proclamation No. 157/2015, art 4,

⁵⁹ <https://www.encyclopedia.com/law/legal-and-political-magazines/amnesty-and-pardon> (last visited on 3/8/2021). also Bryan A. Garner, (2004), supra note 6, p.3519

⁶⁰ L. C. K., The Power of the President to Grant a General Pardon or Amnesty for Offences against the United States, Vol. 17, No. 9,(1852-1869), p. 515

⁶¹ Bryan A. Garner, (2004), supra note 5, p.3519

⁶² FDRE pardon proclamation art. 5 and see Bryan A. Garner, (2004), supra note 5, p.3519

⁶³ SNNPRS pardon proclamation art. 4 and See Bryan A. Garner, (2004), supra note 5, p.3519

president's pardon as:

*“An act of grace, proceeding from the power entrusted with the execution of laws, which exempts the individual, on whom it is bestowed, from the sentence the law inflicts for a crime he has committed.” It is the private, though official act of the executive magistrate delivered to the individual for whose benefit it is intended and not communicated officially to the court.*⁶⁴

However, in ***Biddle v Perovich***, Holmes J. the court declared that:

*A pardon in our days is not a private act of grace from an individual happening to possess power, it is part of the constitutional scheme in almost every jurisdiction, and when granted it is the determination of the ultimate authority that the public welfare will be better served by inflecting less than what the judgment fixed.*⁶⁵

When we came to Ethiopia the criminal law does not pay attention to the definition of pardon,⁶⁶ On the other hand, article (2) sub-article (1) of Proclamation No. 840/2006 of the Procedure of Granting and Executing Pardon Proclamation defines the term pardon as follows: “Pardon” means a decision to remit a punishment in whole or in part or to reduce it to a lesser nature or gravity.”⁶⁷ According to this definition, we can understand that pardon is a remission of sentence or the altering of a severe penalty to lesser or more lenient punishment.

Moreover, the SNNPRS Amended Procedure of Granting Pardon Proclamation No. 157/2015 also defines the pardon in the same way as the FDRE pardon proclamation. Because when we look at 2(6) of the SNNPRS pardon proclamation article define “Pardon is to remit a sentence on criminal case decided in court either in whole or in part or to reduce it to a lesser nature or gravity.”⁶⁸ However, earlier laws, such as Article 229 of the new criminal Code; Article 239 of the former Penal Code; Although they did not specify the definition of pardon other than the fact that

⁶⁴ The President’s Pardon Power and Legal Effects on Collateral Consequences, Congressional Research Service, (2016), p.1& also Imo Udofa, (2018), supra note 21, p.115, See *Executive Pardoning Power*, The Virginia Law Register, Vol. 4, No. 1 (1918), p.1. <http://www.jstor.org/stable/1107337>. (last Accessed: 05/06/2021)

⁶⁵ Daniel Pascoe & Andrew Novak, EXECUTIVE CLEMENCY COMPARATIVE A UBIQUITOUS PART OF THE CONSTITUTIONAL SCHEME (2021), p. 1, also Imo Udofa, *the Abuse of Presidential Power of Pardon and the Need for Restraints*, Beijing Law Review, (2018), p.115&116, also J.P. RAI, Exercise of Pardoning Power in India: Emerging Challenges, Vol XII, No. 2, (2014), p.2

⁶⁶ Belayneh Admasu & Alemu Dagnaw (2016), supra note 20, p. 301 &302, translation mine

⁶⁷ FDRE Proclamation No. 840/2014), Art 2(1)

⁶⁸ SNNPRS Proclamation No. 157/2015) art 2(6)

stipulate a convicted offender could be pardoned, however the FDRE Procedure of Granting and Executing Pardon Proclamation No. 840/2006 gives the definition of pardon, and SNNPRS pardon proclamation was similarly reviewed from the federal proclamation.

What we infer from the above expressions and meanings in common the notion of pardon is that basically one of the Exemptions of a criminal offence and court penalties in connection with the commission of the criminal offense. Furthermore, it is a government decision made by the executive branch of government that makes changes or reduces the penalty the crime committed by individuals or occasionally groups. This government decision is also remits, modifies, and changes the punishment imposed and we can say that pardon is also a grace of the government.

2.3. Concepts associated with Pardon

The terms Forgive, Mercy and Pardon are used interchangeably,⁶⁹ and the term pardon is also closely related with Clemency, Parole and Amnesty.

2.3.1. Clemency

The word ‘Clemency’ is derived from the Latin word *Clemens*, which means “mercy or leniency” and the pardoning power is mainly well-known form of executive clemency and usually clemency applied to explain functions of the President or the chief executive during the course of pardoning a convicted criminal or commuting a sentence.⁷⁰

A pardon is a form of clemency,⁷¹ the general term of clemency is to remit a sentence in whole or in part or to reduce it to a lesser nature or gravity for a specific offense but not exclude criminal records and civil liabilities arising from criminal decision. A pardon can also be replaced by clemency, which is forgiveness of a punishment, a commutation, which is reduction of a sentence, or a reprieve, which is a temporary putting off of punishment while the situation is analysed further.

Generally, pardon is the broadest form of clemency and encompasses the full range of executive power, “clemency” and “pardon” will be used interchangeably, except in the unusual

⁶⁹ Kathleen Dean Moore, (1989), supra note 40, p.183, also J.P. RAI, (2014), supra note 36, p.1

⁷⁰ Bryan A. Garner, (2004), supra note 5, p.760

⁷¹ Daniel Pascoe & Andrew Novak, (2021), supra note 65, p. 18

circumstance where a specific constitution distinguishes between the pardon power and other forms of clemency.⁷²

2.3.2. Amnesties

The term amnesty derives from the Greek term “*amnesia*” which means “an act of oblivion/ forgetfulness; the entire freedom from penalty granted to those who have been guilty of any neglect or crime, usually on condition that they return to their duty within a certain period.”⁷³ Hence, in etymological words, the oldest term is “oblivion” and it appears frequently in old peace treaties to denote forgiveness granted to a group of persons guilty of crimes committed during a war. In the Encyclopedia of Human Rights, Amnesty is defined as:⁷⁴

The absolution or overlooking by a government of an offense of a political nature, such as treason or rebellion often on condition that the offender resumes his or her duties as a citizen within a prescribed period.

Black’s law dictionary 8th edition defined “Amnesty as pardon extended by the government to a group or class of persons, usually for a political offense; the act of a sovereign power officially forgiving certain classes of persons who are subject to trial but have not yet been convicted.”⁷⁵

Coming to Ethiopia, amnesty means a grant of immunity from criminal liability, conditionally or unconditionally, for those suspected of similar criminal offence before or after criminal investigation started or who are under prosecutions, who have been convicted of certain specified criminal offences.⁷⁶ And the board of amnesty before granting amnesty should be considered Impacts or potential impacts of criminal offences on national sovereignty, whether it is better alternatives to ensure peace and security and the Interest of the persons granted amnesty to return to peaceful life.⁷⁷

⁷² Andrew Novak, transparency and Comparative Executive Clemency: Global Lessons for Pardon Reform in the United States, vol. 49 (2016), p.19.

⁷³ <https://www.encyclopedia.com/law/legal-and-political-magazines/amnesty-and-pardon> (last visited on 3/8/2021). also L. C. K., The Power of the President to Grant a General Pardon or Amnesty for Offences against the United States, Vol. 17, No. 9,(1852-1869), p. 515

⁷⁴ *Ibid*

⁷⁵ Brian A. Garner, (2004), *Supra* note 5, p.263

⁷⁶ Procedure of Granting and Implementing Amnesty Proclamation No. 1089/2018, Federal Negarit Gazette of the Federal Democratic Republic of Ethiopia, 24th year No 52 Addis Ababa 16th August 2018, art. 2(1)

⁷⁷ FDRE Amnesty Proclamation art 10

Amnesty also has the effect of Bars or discontinues any investigation or prosecution of criminal offence; If convicted, cancels sentence as well as its other consequences under criminal law; Presumes conviction to be non-existent and causes to delete its entry from the judgment register of the criminal; Unless otherwise provided by law costs incurred towards the government and which have not yet been collected shall be regarded as remitted.⁷⁸ As a sovereign act, amnesty is usually granted for political offenses committed against the state such as treason, sedition, rebellion and political uprisings.

Both Amnesty and pardons serve to remove criminal conviction, however, when we look at the distinction between pardon and amnesty, even if pardon and amnesty come from the same structure, they are having different application, and Pardon is aimed at ensure the interests of the public, government and offenders by re-integrating criminal offenders into the community and make them productive citizens upon ascertaining that they have repented and reformed and to remit a sentence in whole or in part or to reduce it to a lesser nature or gravity, the pardon can apply to only a final and enforceable punishment, that is, after all modes of review have been exhausted, it does not eliminate the civil responsibility of the convict and does not erase the sentence, which remains on his judicial record.⁷⁹ The pardon can be subjected to certain conditions, for instance, the petitioner's dangerous disposition, the gravity of the offence and the duration of the time the petitioner has been in custody and prison; the petitioner's confession and repentance, his effort to reconcile with the victim or his family and compensate them, or his ability and willingness to settle the compensation decided against him; opinion of the victim or his family on the petition for pardon.⁸⁰ While amnesty is one of public interest and usually is granted before a trial take place or under investigation, charged with or conviction and in practice, amnesty is granted or approved by the legislature, whereas the pardon is granted by the head of State, because of this reason, this analysis distinguishes between “executive pardons” and “legislative amnesties”.⁸¹

⁷⁸ FDRE Amnesty Proclamation art 12

⁷⁹ Rene Levy, Pardons and Amnesties as Policy Instruments in Contemporary France, Vol. 36, No. 1, (2007), p. 557, FDRE pardon Proclamation No. 840/2014), Art 2(1), also Proclamation No. 840/2014, art 2(1) & art 3, See FDRE criminal code art.229 (2) paragraph two, also Proclamation No. 840/2014, Art 22, SNNPRS Proclamation No. 157/2015, art.22,

⁸⁰ FDRE pardon Proclamation No. 840/2014, Art 20

⁸¹ Granting of Amnesty to Outlaw Who Have participated in Different Crimes proclamation, Proclamation No. 1096/2018, Federal Negarit Gazette of the Federal Democratic Republic of Ethiopia, 24th year No 59 Addis Ababa

There is a tendency to ascribe them different aims: contrary to pardon, which is traditionally seen as an act of individualized pardon involving an ordinary criminal, amnesty historically has a collective and political character, its ultimate aim is to restore harmony and put an end to a troubled and violent political period by expunging the events from collective memory and putting an end to any ongoing legal proceedings.⁸²

2.3.3. Parole

Black's law dictionary defined as parole is release of a prisoner from imprisonment before the full sentence has been served and it is granted for good behavior on the condition that the parolee regularly report to a supervising officer for a specified period.⁸³ In other word parole is a prisoner's conditional release under the supervision after a portion of sentence has been served but before serving the full punishment.⁸⁴ And it is an essential part of the total correctional process. In a sense, parole is a method of selectively releasing perpetrators from institutions, under supervision in the community, where by the community is afforded continuing protection while the offender is making his adjustment and beginning his contribution to society. Parole is granted to a prisoner under certain special conditions.⁸⁵ It is subjected to certain limitations and circumstances imposed by the releasing authority.

The Ethiopian criminal law also recognizes parole whereby an offender is conditionally released before the completion of the term of imprisonment, and may be granted by the court after receiving recommendations from prison administration and taking into consideration the behavioral reform of the criminal; this process helps the offender to early join and reintegrate with his\her families and the community.⁸⁶ The Criminal Code in Art 202 states the requirements that must be fulfilled to allow parole which include: the prisoner has to serve two-thirds of a sentence of imprisonment or twenty years in case of life imprisonment; the prisoner or the management of the institution must submit a petition and recommendation respectively; the criminal must present tangible proof of behavioral reform during the period of imprisonment; the prisoner must repair or agree with the victim or his\her families to repair the harm caused; and

^{7th} September 2018 , also Jody c. Baumgartner and Mark H. Morris, *Presidential Pardon Unbound: A Comparative Look at Presidential Pardon*,(2001), supra note 73, p.214, also Rene Levy, (2007), supra note 79, p.554

⁸² Rene Levy, (2007), supra note 79, p.554

⁸³ Bryan A. Garner, (2004), supra note 5, p 3534

⁸⁴ Freda Adler, Gerhard O. W. Mueller, William S. Laufer, *CRIMINAL JUSTICE*, 4th ed., (2006) p. 445

⁸⁵ Shewit Kahsay, (2017), supra note 15 p 29 &30

⁸⁶ *Ibid* , p.34

that the character of the prisoner warrants the assumption that he\she will be of good conduct when released and not be a recidivist.⁸⁷

Pardons and paroles are two completely different functions in the criminal justice process, the pardon involves forgiveness and is a remission of sentence and Parole is part of the punishment, and also Pardoned prisoners are free whereas parolees may be arrested and re-imprisoned without a trial and a pardon is made by executives, whereas parole is provided by the court that issued the sentence or by the interpreter.⁸⁸

2.4. History of pardon

To better examine the pardon power as a legal concept and its purpose, it is important to review its historical origin and evolution, indeed, it unquestionably pre dates written laws, to a time when cavemen sat around the fire and a tribal leader was charged with final authority whether to inflict expulsion or death upon a member who had transgressed the tribe's code of behaviour, or whether to show mercy.⁸⁹

Executive mercy existed in legal regimes as varied as under the code of Hammurabi in the Babylonian empire, in the Roman Empire during Biblical times, and during the Han dynasty in china, however, not every society entrusted the mercy power to a single executive, perhaps the most well-known Roman pardon was Pontius Pilate's release of Barabbas instead of Jesus Christ in the Christian scriptures, as part of a Passover tradition of granting pardon on special occasion.⁹⁰

Historically, Presidents have used their pardoning power to prevent the punishment of innocent people; to recognise the rehabilitation of perpetrator and aid their re-integration into society; to restore the tranquility of the nation after war, rebellion or national scandal; to extend amnesty to entire class of people in order to effect a degree of national healing; and occasion to punish their enemies and reward their friend.

⁸⁷ *Ibid* p.34 and FDRE criminal code art 113 and art 202

⁸⁸ <https://www.abysinnialaw.com/blog-post/item/1590-2015-07-24-13-51-30> (last visited on 3/17/2021),

⁸⁹ Tamar Avaliani & Giorgi Chitidze, (2016), *supra* note 2, p. 8, See also Jonathan Harris & Lothlorien Redmond, *Executive Clemency: The Lethal Absence of Hope*, vol. 3 (2007), p. 2 &3

⁹⁰ Jody c. Baumgartner and Mark H. Morris, *Presidential Pardon Unbound: A Comparative Look at Presidential Pardon*, (2001), p.6

When we come to Ethiopian, Pardon system in Ethiopia is not a recent history; in ancient history of Ethiopia, kings were captured or captured by the war, the prisoner hold for a while and they were pardoned during holiday or festivals, in this regard king Izana the first who announced pardoned, and besides Emperor Tewodros pardoned to many captives on the occasion of their son's Alemayehu birthday, Furthermore Emperor Menelik II also released on pardoned and mercy to many captives.⁹¹

Before Ethiopia embarked on the modern system of government, kings and rulers had their own pardons and since the beginning of the modern system of government, it has not had a detailed codes of conduct issued before 1996 regarding pardon, except for the basic rules.

Pardoning power is a practice common to all cultures and all periods of history. With the exception of china's, all the constitutions in the world provide for a pardoning power.⁹²

2.4.1. Pardon in legal codes

As far as legal codes are concerned, Provisions for pardon were present in even the earliest statutes have provisions for pardon, retributive justice and pardon were bound together in the Code of Hammurabi, This is the oldest known statutory law, promulgated by the ruler of Babylon during eighteenth century B.C., and carved into a stone monument on public display.⁹³ The Code of Hammurabi can best be described as a set of rules governing social affairs, and it combines of the elements of both a civil and criminal code and it is interesting, For us, it is interesting that the written text of the Code of Hammurabi places no restrictions on the king's decision whether to grant a pardon, but appears to leave it to the discretion of the king.⁹⁴ The Code stipulates pardon- 'If a man's wife (on the spot) is caught by another man, both must be tied up and thrown into the water, but the husband can pardon his wife and the king can pardon his slaves.'⁹⁵ Thus, the king had limitless authority to pardon his slaves for any reason, and the

⁹¹ Belayneh Admasu & Alemu Dagnaw, (2016), supra note 20, p.311, translation mine

⁹² Kathleen Dean Moore, (1989), supra note 36, p.7

⁹³ Kathleen Dean Moore, (1989), supra note 36, p.15& see also Jody C. Baumgartner & Mark H. Morris, (2001), supra note 90, p.212

⁹⁴ *Ibid*

⁹⁵ Daniel T. Kobil, The Quality of Mercy Strained: Wrestling the Pardoning Power from the King, vol. 69, (1991), pp. 583

husband has authority over his family and can pardon his wife for adultery, at a time when women have no power, only men have the right to pardon.⁹⁶

The code is known for its initial list of sanctions: mutilation or amputation of offending body parts, slavery, drowning and etc. But the code is more remarkable for its effort to stipulate a limit on private revenge, blood feuds, and official punishment, and accident were not be punished; people who commit homicide only need to be fined.⁹⁷ Certain excuses and justifications were permitted; abandoned, impoverished wives will not be punished for bigamy, and Article 129 also stipulates the conditions for pardon for adultery.⁹⁸

Although the power of forgiveness is ideally regarded as a tool of justice and mercy, it is still often used for political gain. The King of England used the power of pardon to generate income by selling pardons in order to raise armies of beholden pardon recipients and even to create a labour force sent to the new world.⁹⁹ Although today's understanding and use of the power of pardon power is more connected with the concepts of mercy and fairness, this analysis will show that it still exists in the political arena, and today it successfully found a place, under the guise of justice, in the written Constitution of several Countries of the world to meet political end.¹⁰⁰

The pardon process progressed along with society and in the democratic society of ancient Athens; the institution of pardon was not highly developed, largely because power rested with the people rather than with a monarch, and relatively little is known about pardons in ancient Athens; ironically, there is no Greek Word for 'pardon,' the great Athenian philosophers had a little to say about pardons even though the word 'amnesty' is a gift from the Greeks.¹⁰¹ Before 403 B.C., according the law known as Adeia, to obtain a pardon, a petitioner had to have the signature of 6,000 citizens via a secret ballot, in Athens, the power of pardon rested with the people, Adeia was often restricted to influential figures such as famous athletes, popular actors,

⁹⁶ *Ibid* pp. 583 & 584

⁹⁷ Kathleen Dean Moore, (1989), *supra* note 36, p.15

⁹⁸ *Ibid* p.15

⁹⁹ Jody C. Baumgartner & Mark H. Morris, (2001), *supra* note 90, p.212

¹⁰⁰ *Ibid*, p.212

¹⁰¹ Kathleen Dean Moore, (1989), *supra* note 36, p.16, see also See Tamar Avaliani & Giorgi Chitidze (2016); *supra* note 2, p. 8, also Parul Kumar, *the executive power to pardon: dilemmas of the constitutional discourse*, (2009) p.10. also Paul F. Eckstein & Mikaela Colby, *presidential pardon power: Are There Limits and, if Not, Should There Be?*, Arizona State Law Journal, p.74, also Jody C. Baumgartner & Mark H. Morris, (2001), *supra* note 87, p.212

and disgraced rulers could that many interested people be found and orators making the process more akin to a popularity contest.¹⁰²

Moving forward in time, The Romans had a more advanced and frequently used system of pardon than the Greeks, the most well-known example of the roman pardon power exercised by Pontius Pilate's pardon of Barabbas rather than Jesus exemplifies the Romans' propensity to use pardons often and skillfully for their political ends.¹⁰³ In the Roman Empire, the purpose of the pardon was not a mechanism to forgive a person of a crime or an act of pardon however it was applied for political purposes and to control the masses.¹⁰⁴ Romans punished soldiers who had committed crimes selectively, not in mass, and the pardon served to establish discipline in the army and to instill a fear of the ruler, and also the Romans used pardons as an instrument of control over its citizens for example; the ancient Romans chose to execute every tenth mutinous troop instead of executing an entire army of perpetrators.¹⁰⁵ The Romans evidently understood that the power to pardon is every bit as great a power as the power to punish, and they used the pardon often and skillfully for their political ends.¹⁰⁶

The pardon power of the ancient was often marked by considerations of expediency rather than justice, if the law was itself synonymous with justice, there would have rarely been need to create exceptions to the law to further justice, This is understandable, because the law itself was thought by many early cultures to originate in infallible sources such as God or the people, and thus to embody principles of justice adequately. This tendency to use the pardon power for reasons unrelated to justice eventually found its way into the law of England.

While the King of England had exercised the power to pardon for centuries, the power did not appear in coded law until the seventh century, over time, the power to pardon emerged as a check on developing judicial systems that were often harsh and unforgiving. Sentences that were deemed unfair or unjust could be moderated through an act of executive pardon.¹⁰⁷

¹⁰² *Ibid*

¹⁰³ Joel Meyer, Reflections on Some Theories of Punishment, vol.59, Issue 4., (1968), p.595

¹⁰⁴ Kathleen Dean Moore, (1989), supra note 36, p.16. also <https://law.jrank.org/pages/506/Amnesty-Pardon-Historical-overview.html> (last vested on 3/8/2021) , also <https://www.encyclopedia.com/law/legal-and-political-magazines/amnesty-and-pardon> (last vested on 3/8/2021

¹⁰⁵ Paul F. Eckstein & Mikaela Colby, supra note 98, p.74

¹⁰⁶ Kathleen Dean Moore, (1989), supra note 36, p.16 & 17

¹⁰⁷ Jody C. Baumgartner & Mark H. Morris, (2001), supra note 90, p.212

In post-Reformation England, the royal prerogative of “mercy” was used for three main purposes: (1) as a precursor to the as yet unrecognized defenses of self-defense, insanity, and minority; (2) to develop new methods of dealing with perpetrators unrecognized by legislation such as transportation or military conscription; and (3) for the removal of disqualifications attaching to criminal convictions.¹⁰⁸

In England, for instance, the prerogative of mercy was assigned by law to the king as early as the seventh century, and it was still the king who held the pardoning power under the new code of laws of William the conqueror, however, the power did not go uncontested.¹⁰⁹ The earls have a parable power of pardon in their own land, the church also has the right to pardon crimes through “the interests of the clergy”, and the president often challenges the king's power of pardon. Thus in England, as in much of Europe, the unceasing struggles for power often took the form of struggles for the exclusive power to pardon, which was correctly recognized as of great value, politically and financially.¹¹⁰

The pardoning power had vital role to play in justice systems in which the criminal law was sever by any standard, and in England, death was the penalty prescribed for every serious crime; by 1819, fully 220 offences were capital offences.¹¹¹ The liberal use of the royal prerogative mercy softened the harshness of the system, so, as Albert Alschuler pointed out, of the 1254 defendants punished to death in England in 1818, only ninety-seven were executed and the others received the king’s pardon, often on the recommendation of the trial judge.¹¹²

As their empires expanded across Africa, Asia, and the Americas, European rulers exercised the pardon power over their increasing numbers of colonial subjects.¹¹³ In France, this process was dramatic: the revolutionaries abolished the king’s pardon power and transferred it to parliament in 1789. It was restored to Napoleon Bonaparte in 1802, but with intermittent parliamentary oversight thereafter.¹¹⁴

¹⁰⁸ <https://law.jrank.org/pages/506/Amnesty-Pardon-Historical-overview.html> (last vested on 3/8/2021), see also <https://www.encyclopedia.com/law/legal-and-political-magazines/amnesty-and-pardon> (last vested on 3/8/2021)

¹⁰⁹ Kathleen Dean Moore, (1989), *supra* note 36, p.17

¹¹⁰ *Ibid* p.17

¹¹¹ *Ibid* p.17&18

¹¹² *Ibid* p.17&18

¹¹³ Daniel Pascoe & Andrew Novak, (2021), *supra* note 62, p. 4

¹¹⁴ *Ibid*, p. 4&5

The Spanish king frequently granted both general and individual pardons: the former were often tied to commemoration of religious holidays, while the latter were conditioned on one's noble service, good deeds, or payment of money.¹¹⁵

The basic provisions for a pardoning power are nearly always found in the state constitution, the main departures being "basic" or "organic" laws, which in effect take the place of a constitution.¹¹⁶ The pardon power is included in the written constitutions of nearly all countries; moreover, pardons are an established part of modern politics.¹¹⁷ Some pardons attract a great deal of attention; in June 2000, Italian President Carlo Ciampi pardoned Mehmet Ali Agca, a man jailed for his attempt to murder Pope John Paul II in 1981; French President Jacques Chirac rejected a pardon request by 89 year old Maurice Papon, a former official in the Vichy regime convicted of "complicity in crimes against humanity" in a highly publicized trial in 1998. Other pardons seem fairly routine, and on his seventieth birthday, King Hassan II of Saudi Arabia granted various pardons to over 1,800 people.¹¹⁸

2.5. The pardoning power in global perspective

All over the world, most countries have a provision for pardon to relieve, respite or remit the punishment or to suspend, remit or commute the sentence of any person convicted of any offence to mitigating the, exceedingly harsh, application of law without under toning the deterrent potentiality of the law and it is conventionally well established principle, being practiced all kinds of polity, across the world in the annals of administration of Criminal Justice,¹¹⁹ the power of pardoning is the prerogative of the executive *vis-a-vis* Head of the State.

In many countries, the head of state is the pardon authority, but, some constitutional systems provide that the pardon and pardon power to be reserved for the legislature or for multiple branches of government joint actions, for example in accordance with the constitution of Nicaragua, Switzerland, Turkey and Uruguay, to name several instances, the power of pardons mainly belongs to the legislature or is shared among powers.¹²⁰ Greece needs the president to

¹¹⁵ Ruth Pike, CAPITAL PUNISHMENT IN EIGHTEENTH-CENTURY SPAIN, (1985), p. 375

¹¹⁶ Leslie Sebba, *The Pardoning Power A World Survey, volume 68, issue 1*, (1997), p.111

¹¹⁷ Jody C. Baumgartner & Mark H. Morris, (2001), *supra* note 90, p.212

¹¹⁸ *Ibid*, p.212

¹¹⁹ Kathleen Dean Moore, (1989), *supra* note 36, p.15

¹²⁰ Andrew Novak, Comparative executive clemency: the constitutional pardon power and the prerogative of mercy in global perspective, p.7

follow the recommendation of the Minister of Justice and negotiate with the council approved by the parliament, this is also a feature of the Danish system, and while some countries such as Portugal, Finland, or Indonesia require the government to pass pardon and act in accordance with the opinion of the Supreme Court.¹²¹

The exercise of pardon power varies by political system, and Countries outside the common law world often show greater differences in political systems than the Commonwealth framework, and in countries governed by collectives rather than individuals, for example, in German democracy Before the Republic or the Soviet Union, the power of pardon rested with the collective body, not the head of state himself.¹²² Countries with separate head of state and government may need to approve pardons, For example, in Romania, the president has the right to approve pardons only after being sentenced and convicted, but the prime minister must approve the presidential pardon to check the president's powers, and the president also has the right to request the general prosecutor.¹²³ Conversely, the Polish president can issue a pardon without the approval of the prime minister, even if other presidential powers require such approval.¹²⁴

The French president exercises the power of pardon in his personal capacity, cannot be assigned, and he does not need to explain his reasons, and can consider a reprieve request made by anyone who has a material or moral interest in the matter, not just the perpetrator.¹²⁵

In Russia, a country with a long history of autocratic rule, the presidential power in the 1993 constitution gives the president full and unlimited pardons and since 1992, a 15-member presidential pardon committee has been composed of famous artists, writers and citizens. Form, review and make recommendations to the president.¹²⁶

2.6. Purposes and Justifications of pardon Power

However, pardons are not always considered to be the type of behavior that must be justified by arguments; In fact, most presidential pardons are issued without any statement of reason, unless

¹²¹ *Ibid*, p.7

¹²² Leslie Sebba, (1997), *supra* note 116, p.112

¹²³ Andrew Novak, *supra* note 120, p.8

¹²⁴ *Ibid* p.8

¹²⁵ *Ibid* p.9

¹²⁶ *Ibid* p.9

there is a assurance that there are sufficient reasons therefore, the issue of justification and sufficient reason for presidential pardons is rarely resolved and still has not been resolved.¹²⁷ When a person convicted of a crime may not have committed the crime, there are good reasons for pardon.¹²⁸

In the *Ex-parte Phillip Grossman Case*, Chief Justice Taft gave a classic elaboration on the legitimacy of pardon power in the legal system, he said:¹²⁹

Executive clemency exists to afford relief from undue harshness or evident mistake in the operation or enforcement of the criminal law. The administration of justice by the courts is not necessarily always wise or certainly considerate of circumstances which may properly mitigate guilt. To afford a remedy, it has always been thought essential in popular governments, as well as in monarchies, to vest in some other authority than the courts power to ameliorate or avoid particular judgments.

The most important reasons for the power of pardon that can be derived from the above discussion include:

1. Justice Related Interests
2. Purpose of public policy

2.6.1. Justice related interest

Pardon exists to protect citizens from judicial errors that may result from unjust convictions and excessive punishments, or to show compassion for social and political stability and peaceful

¹²⁷ Kathleen Dean Moore, Pardon for Good and Sufficient Reasons, vol.27, issue 2, (1993), p.281

¹²⁸ Kathleen Dean Moore, Pardon for Good and Sufficient Reasons, vol.27, issue 2, (1993), p.284 see also Perhaps the most well-known example comes from Luke 23:13-25: Pilate then called together the chief priests and the rulers and the people, and said to them, “You brought me this man as one who was perverting the people; and after examining him before you, behold, I did not find this man guilty of any of your charges against him; neither did Herod, for he sent him back to us. Behold, nothing deserving death has been done by him; I will therefore chastise him and release him.”

¹²⁹ Imo Udofa, *the Abuse of Presidential Power of Pardon and the Need for Restraints*, Beijing Law Review, (2018), p. 123

coexistence, for this reason, the power to pardon is an important check and balance factor for the judiciary.¹³⁰

An extremely prolific reason for the pardon is the lack of justice (whether true or accused) in the courts, the judiciary, like any other institution, is not invulnerable and the judge may be makes mistakes and the constitution must have a pressure relief valve that Injustice can be corrected.¹³¹ Therefore, the power of pardon can benefit a person who may be unjustly convicted, on the other hand, a person can be convicted, but the punishment may seem excessive and disproportionate, that justify there may be a mitigating situation and lowering sentence.¹³²

There are many opinions on the basis of granting pardons to the defendant, Hegel's view is that pardons are justified only when they “improve justice”, that is, under certain circumstances, justice cannot be done without pardons, because of injustice and the sentence was severe or someone was unfairly convicted.¹³³ According to this view, it is unreasonable to grant pardon without seeking a broader goal of justice and it may be related to the broader philosophy of retribution: the school of retribution It is justified that pardon is only used as an extra-legal corrective measure to remedy for any failure of the system, so as to ensure that the defendant obtains a fair case, and only concerned with the goal of improving justice

Alexander Hamilton advocates the power to pardon, and believes that the benign privilege of “humanity and good policy” that requires pardon is necessary to ease the harsh justice of the Criminal Law, and the power of pardon can provide “exceptions in favor of unfortunate guilt.”¹³⁴ He continued: “The criminal codes of all countries have so much necessary severity, if exceptions for unfortunate crimes cannot be easily obtained, justice will appear too bloody and cruel.”¹³⁵ To the defendant (guilty) before trial and the actual punishment is long-term imprisonment, sometimes as long as several months or even years, those who are unfortunate

¹³⁰ Imo Udofa, *the Abuse of Presidential Power of Pardon and the Need for Restraints*, Beijing Law Review, (2018), p. 115

¹³¹ *Ibid* p. 123

¹³² *Ibid* p. 123

¹³³ M. Strasser, *The Limits of Clemency Power on Pardons, Retributivist, and the United States Constitution*, vol.41, (2002) p. 85.

¹³⁴ Margaret Colgate Love, *The Twilight of the Pardon Power*, vol.100, No.3, (2010) p.1173

¹³⁵ Imo Udofa, (2018), *supra* note 26, p. 123

should not be forced to rely on the discretion of the executive branch, but the positive law should be a proportionally reduced sentence where possible.¹³⁶

In addition, the fact that the offender has “completely reformed,” is “deeply repented,” and “learned the lesson” is a recognized motive for pardon. Good behavior outside the prison is certainly the best proof of reform; this is not only recognized in the pardons of convicted persons who have served their sentences or conditionally released by parole, but also in justice fugitives.¹³⁷

Once the sentence imposed by the court is completed, the pardon will play an important role in the offender's re-entry and reintegration into society by reducing legal disability and proving good character. Furthermore, to some extent, when we see the enormous size of the prison population and the need to reduce this pressure, the relevance of pardons seems right. In addition, pardons are a useful tool for prison administrators to reward prisoners for good behavior and achievements.

It can be said that pardons will be an indispensable way to prevent errors in judgment before the judicial system reaches the level of perfection that does not make mistakes or correct all errors.

2.6.2. Purpose of public policy

Another purpose of the power of pardon is not to bring justice to the pardoned person, but rather the public policy purpose of the government. Pardons are also used for broader public policy purposes, namely to ensure peace and quiet during uprisings and to bring peace after internal conflicts. Hamilton stated that “in the season of rebellion, there are often critical moments, and the timely provision of pardons to rebels or rebels can restore peace to the Commonwealth; and, if it passes without improvement, it may never be remembered in the future. Therefore, after the American Civil War in the 19th century, Abraham Lincoln and his successors forgave most of the soldiers who fought for the Confederacy.¹³⁸

Generally speaking, when we look at the purpose and reasons for pardons, some legislation stipulates that pardons can only be based on chronic illness, disability, and old age, often

¹³⁶ James D. Barnett, *The Grounds of Pardon*, vol. 17 Issues. 4, (1927), p. 499-503

¹³⁷ *Ibid*, p. 520

¹³⁸ *Ibid* p. 123 &124

determining only humanitarian characteristics as the sole reason for pardon.¹³⁹ Sometimes the issue of pardons is justified, because in turbulent times and when public opinion is generally pressured, the seemingly appropriate sentence is later found to be too harsh and meaningless when anger subsides and logic increases, an extrajudicial intervention based on public opinion it can be considered fair.¹⁴⁰ In some countries, pardons are used as adjustment factors or issues related to criminal policy and incarceration rates.¹⁴¹ Therefore, when the prison is overcrowded, administrative pardons are used to reduce the prison population, and when the re-socialization plan shows signs of success, pardons are used as a special legal remedy.¹⁴²

Kathleen Dean Moore believes that pardons best serve the public interest when they serve justice. The judicial system is a complex system through which general rules are applied to specific cases under uncertain circumstances. Therefore, it is particularly prone to errors. The Power of pardon is a backup system that can correct mistakes outside the rules, ensuring that only those who deserve punishment can be punished. Therefore, when the president makes decisions based solely on his own interests or narrow partisans, or when he has sympathy or concern for the well-being of the accused, he abuses the power of pardon. The president correctly uses the power of pardon when he uses the power of pardon to prevent or correct possible injustices.¹⁴³

2.7. Pardons advantage and disadvantage

As we have seen in the above-mentioned history, kings, princes, popes and presidents are given the power of pardon because of mercy, forgiveness, sympathy and justice, people who were previously punished by the state.¹⁴⁴ This is a glorious tradition in the eyes of people and the public who have been given a second chance, because forgiveness and mitigation symbolize humanity or the wisdom of the sovereign and provide a safety valve against condemnation.¹⁴⁵

¹³⁹ Besa Arifi, The legal reasoning of the president's right to issue pardons, Volume 2 Issue 2, P.46

¹⁴⁰ *Ibid* , P. 46

¹⁴¹ *Ibid* , P.46

¹⁴² *Ibid* P. 46

¹⁴³ Kathleen Dean Moore, Pardon for Good and Sufficient Reasons, vol.27, issue 2, (1993), p.284

¹⁴⁴ Daniel J.Freed, *Pardon Power and Sentencing Policy*, Federal Sentencing Reporter, VOL. 13, NO. 3–4,(2000–2001), p.121

¹⁴⁵ *Ibid* p.121

Pardon can also provoke strong critics, criminals in similar situations often feel unbalanced and inexplicably ignored.¹⁴⁶ More generally, prosecutors, judges, and ordinary citizens often worry that pardons have been granted for unworthy or high-risk criminals or that pardons or accelerated release would endanger public safety or undermine respect for the law.¹⁴⁷

2.8. Models of the Pardons Process

Two different models are used to explain the pardon process: the presidential model and the agency model.¹⁴⁸ The presidential model treats the president as the main participant in the pardon process; in contrast, the agency model treats officials of the Ministry of Justice as the main decision makers in the pardon process.¹⁴⁹

2.8.1. Presidential Model

The presidential model takes a top-down approach to the pardon process and identifies the president as the main decision maker in the pardon process, and this model conceptualizes the pardon power as a tool of presidential leadership and presidential influence that the president can use to achieve its goals and sets public policies and the goal includes four independent variables: party affiliation, the end of major military conflicts, whether the president is a lame duck, and the president's public approval rate.¹⁵⁰

2.8.2. Agency Model

On the contrary, the vision of the agency model is to act as a bottom-up process of pardon procedures, and the model identifies officials within the Ministry of Justice as the most important group of participants in the pardon procedures, and cannot issue any pardon without the signature of the president and the president-centered view of pardon procedures underestimates the importance of the Department of Justice in pardon procedures.¹⁵¹

When we came to the SNNPRS follow bottom-up process because the application of pardon first filed with the pardon recruit committee, this committee recruit the prisoner with relevant

¹⁴⁶ *Ibid*, p.121

¹⁴⁷ *Ibid*, p.121

¹⁴⁸ H. Abbie Erler, *Executive Clemency or Bureaucratic Discretion?. Two Models of the Pardons Process*, Vol. 37, No. 3 (2007), p.428

¹⁴⁹ *Ibid* p.428

¹⁵⁰ *Ibid* p.434

¹⁵¹ *Ibid* p.437

information sent to the board of pardon and the pardon Board has examine a petition for pardon lodged and submit recommendation to the chief executive and the chief executive examine the recommendation of pardon board and grant pardon. From this we can understand that SNNPRS follow agency model.

2.9. Pardon system in Ethiopia

Pardon system in Ethiopia is not a recent history; Ethiopia has been practicing Pardon and Commutation since the period of Axum Dynasty.¹⁵² In ancient history of Ethiopia, kings were captured or captured by the war, the prisoner hold for a while and they were pardoned during holiday or festivals. In this regard king Izana the first who announced pardon, besides, Emperor Tewodros pardoned too many captives on the occasion of their son's Alemayehu birthday, Furthermore Emperor Menelik II also released on pardoned and mercy to many captives.¹⁵³ Moreover, before Ethiopia embarked on the modern system of government, kings and rulers had their own pardons and since the beginning of the modern system of government, it had not a detailed code of conduct issued before 1996 regarding pardon, except for the basic rules.

The 1931 of the constitution is the first written constitution in Ethiopia, and Pardon began with the constitutional recognition of the Ethiopian legal system in 1931 and the 1955 constitution contained various provisions on pardon. Likely, Articles 35 of the 1955 revised constitution indicate that the king will grant pardon in various ways.¹⁵⁴ Moreover, Article 86/3 of the Constitution of the people's democratic republic of Ethiopia, which was enacted in 1987, states that the President of the Republic of Ethiopia can grant pardon in accordance with the constitution and other laws.¹⁵⁵ When we examine the provisions according to article 16 of the 1931 Ethiopian constitution, the emperor has the right to grant pardons, commute penalties, and to reinstate."¹⁵⁶ And also Article 35 of 1955 revised constitution Ethiopian provided "The

¹⁵² Tibeso Bezabih, THE IMPACT OF PRISON REFORM PROGRAM ON THE TREATMENT AND RIGHTS OF CONVICTED PERSONS IN FEDERAL MAXIMUM SECURITY PRISON, A Thesis Submitted n Partial Fulfillment of the Requirements of MA n Human Rights at Addis Ababa University, Centre for Human Rights,(2016), p.64

¹⁵³ Belayneh Admasu & Alemu Dagnaw, (2016), supra note 20, p.311, translation mine

¹⁵⁴ 1955 revised constitution of Ethiopia art.35 and art. 59 www.chilot.me (last visited on 3/19/2021)

¹⁵⁵ Proclamation No.1 of 1987, Negarit Gazetta, vol.47, No.1, Addis Ababa, 12 September 1987, article 86(3)(d)

¹⁵⁶ Ethiopia constitution of 1931, established in the reign of his majesty Haile Sellassie I, 16th July 1931, art.16

emperor has the right and the duty to maintain justice through the court; the right to grant pardons and amnesties and to commute penalties.¹⁵⁷

As we can see from the aforementioned provision of the 1931 Article 16 of the Constitution of Ethiopia and Articles 35 of the 1955 revised constitution we can infer that the emperor has the sole power to grant pardon and the king is a power to substitute of a greater punishment with a lesser one such as replacing a sentence of death penalty with a sentence of life imprisonment and the power to reinstate penalties.

The constitution of the people's democratic republic of Ethiopia 1987

Article 86(3) (d) *“The president of the People’s Democratic Republic of Ethiopia shall, in accordance with this constitution and other laws, exercise the following powers and duties: 86(3) (d) grant pardons.”*¹⁵⁸

As per the above provided article it is clear that the president grant pardon in accordance with the constitution and other laws. The EPRDF Constitution provides that pardons are the prerogative of the President of the Republic. And the president of the republic of Ethiopia can grant pardoned in accordance with 1987 constitution and other laws.¹⁵⁹ Moreover, in 1967, the president pardoned 209 political prisoners during his reign.¹⁶⁰

Furthermore, when we see Article 239(1) of the Penal Code of 1957 under the heading of Amharic version of said “amnesty” but English version says “pardon” provides that “a sentence may be remitted in whole or in part or commuted into a penalty of a lesser nature or gravity by an act of pardon of the sovereign power.”¹⁶¹ From this article we can infer that the king may waive all or part of a sentence or the king may change the execution of the sentence to a lesser degree. Even though the Amharic version the title is amnesty, but it is all talk about pardon and with respect to amnesty is clearly stated in Article 240 of the Penal Code.

¹⁵⁷ 1955 revised constitution of Ethiopia art.35 , www.chilot.me (last visited on 3/19/2021)

¹⁵⁸ Proclamation No.1 of 1987, Negarit Gazette, vol.47, No.1, Addis Ababa, 12 September 1987, article 86(3)(d)

¹⁵⁹ <https://www.abyssinialaw.com/blog-post/item/1590-2015-07-24-13-51-30> (last visited on 3/17/2021), translation mine

¹⁶⁰ SNNPRS six year work implementation report, 2004

¹⁶¹ Penal code of the empire of Ethiopia: Proclamation No. 158/1957, art. 239(1)

Penal code of the Empire of Ethiopia: Proclamation No. 158 of 1957¹⁶²

Art. 239. - Pardon.

- 1. A sentence may be remitted in whole or in part or commuted into a penalty of a lesser nature or gravity by an act of pardon of the sovereign power.*

The Condition of pardon shall be governed by the relevant provision of public law

- 2. Pardon may apply to all penalties and measures, whether principal or secondary and whatever their gravity, which are enforceable. The order granting pardon may determine the conditions to which it is subjected and its scope.*

Pardon shall not cancel the sentence the entry of which shall remain in the Police record of the offender and continue to produce its other effects.

From the above provision we can understand that pardon powers have been associated with the sovereign authority, however nowadays they are most frequently entrusted to the head of state. This office is commonly associated with the executive branch of government, particularly in presidential systems of government.¹⁶³

When we see the 2004 revised criminal code, the aim of the Criminal law is to ensure order, peace and the security of the State, its peoples, and inhabitants for the public good. It objects of the law is mainly the prevention of crimes by giving due notice of the crimes and penalties prescribed by law and should this be ineffective by providing for the punishment of criminals in order to deter them from committing another crime and make them a lesson to others, or by providing for their reform and measures to prevent the commission of further crimes.¹⁶⁴

Article 229 of the Revised FDRE Criminal Code:

- (1) Unless otherwise provided by law, a sentence may be remitted in whole or in part or commuted in to a penalty of a lesser nature or gravity by an act of pardon of the competent authority.*

Pardon may apply to all penalties and measures, whether principal or secondary and whatever their gravity, which are enforceable.

¹⁶² Penal code of the Empire of Ethiopia: Proclamation No. 158 of 1957, article 239

¹⁶³ <https://www.abysinnialaw.com/blog-post/item/1590-2015-07-24-13-51-30> (last visited on 3/17/2021), translation mine

¹⁶⁴ FDRE criminal code, art.1

(2) The conditions of pardon shall be governed by the relevant provisions of public law. The order granting pardon may determine the conditions to which it is subjected and its scope.

Pardon shall not cancel the sentence the entry of which shall remain in the judgment register of the criminal and continues to produce its other effects.

The 1996 of FDRE Criminal Code provides and amended that the previous confusion with regard to the title of pardon and amnesty. Secondly the criminal law amended that the previous the penal code implied and give the power that the emperor would revoke the unitary granting pardoning power. Furthermore, the new criminal code gives the power to grant pardon to the competent authority.

Since the adoption of the FDRE constitution, the constitution has recognized various issues, directly or indirectly. The constitution clearly provided in the section on human right that:-

The FDRE constitution Article 28

Crimes against Humanity

1. Criminal liability of persons who commit crimes against humanity, so defined by international agreements ratified by Ethiopia and by other laws of Ethiopia, such as genocide, summary executions, forcible disappearances or torture shall not be barred by statute of limitation. Such offences may not be commuted by amnesty or pardon of the legislature or any other state organ.

2. In the case of persons convicted of any crime stated in sub-Article 1 of this Article and sentenced with the death penalty, the Head of State may, without prejudice to the provisions hereinabove, commute the punishment to life imprisonment.

From the above article the person who perpetrates a crime against humanity in accordance with international convention ratified by Ethiopia and other laws of Ethiopia such as genocide, summary executions, forcible disappearances or torture shall not be barred by statute of

limitation. Such crimes may not be commuted by amnesty or pardon of the legislature or any other state organ.¹⁶⁵

On the other hand, as clearly stated in sub-article 2 of article 28 of the FDRE constitution, the president may change the sentence to life imprisonment for those convicted of the offenses referred to in sub-article 1 (28) of the constitution. This means that changing from the death penalty to life imprisonment is in itself a lower penalty, which is considered a pardon in the concept of pardon. Moreover, from article 2(1) of the Procedure of Granting and Executing Pardon Proclamation 840/2006, the president alter a sentence from death penalty to life imprisonment it make simpler the execution and execution of the sentence itself is considered as pardon.¹⁶⁶

Furthermore, the FDRE Board of pardon, in accordance with the powers to formulate criteria necessary for granting pardon by taking into account the objective given by the Proclamation and provided in directives the types of crimes that should be given special attention in terms of the public and national interests.¹⁶⁷ These include corruption, human trafficking, and Illegal border crossings, terrorism, rape and abduction; crimes on public infrastructures: Electricity, Water, telecommunication e.t.c.¹⁶⁸ the FDRE government acknowledged that pardonable crimes however, with a special focus before granting pardon for such crimes.¹⁶⁹ We can say that in federal pardon laws there are no unpardonable crimes other than those listed crimes under the art 28 of FDRE Constitution.

In addition to this, Article 71(7) of the FDRE constitution explicitly provides for the following power and functions of the president:

71(7) *“He shall, in accordance with conditions and procedures established by law, grant pardon.”*¹⁷⁰

From the above stated article unequivocally provides that the president of the FDRE can grant pardon in accordance with the law. The phrase in accordance with “conditions and procedures

¹⁶⁵ <https://www.abyssinialaw.com/blog-post/item/1590-2015-07-24-13-51-30> (last visited on 3/17/2021), translation mine

¹⁶⁶ *Ibid*

¹⁶⁷ FDRE pardon proclamation art. 9(2)

¹⁶⁸ FDRE pardon directive no.1/2007 art. 11

¹⁶⁹ FDRE pardon directive no.1/2007 art. 11

¹⁷⁰ FDRE constitution art.71(7)

established by law” means includes other laws the petition or application of pardon enacted with regard to pardon such as the criminal code and Pardon Proclamation, regulation and directives.¹⁷¹

The question arises as to what procedure was granted under the Constitution and the Criminal Code. Accordingly, to address this serious problem, in accordance with Article 71 (7) of the FDRE Constitution, the House of Peoples' Representatives of the Federal Democratic Republic of Ethiopia Among other things the procedure of pardon is systematized by the promulgation of pardon proclamation No. 395/1996, to implement the pardon procedure on the basis that the President of the Federal Democratic Republic of Ethiopia shall grant pardon in accordance with the law, which was published in the Federal Negarit Gazeta on April 9, 1996 and this proclamation is repealed by the FDRE Procedure of Granting and Executing Pardon Proclamation No. 840/2006.¹⁷² .

FDRE Procedure of Granting and Executing Pardon Proclamation No. 840/2006 expressly set out who is the organs granting and executing pardon, by whom Pardon Petition lodge and how pardon must be made, and the conditions before the pardon is granted. Pursuant to Article 71/7 / of the FDRE Constitution, based on the fact that the President of the FDRE grant pardon in accordance with the law and also based on of the Federal Pardon Proclamation No. 840/2006, FDRE pardon directive no. 1/2007, With this in mind, SNNPRS regional government promulgated the pardon proclamation No. 157/2007 in the regional council.

¹⁷¹ *Ibid*

¹⁷² Procedure of Pardon Proclamation, Proclamation No. 395/2014, Federal Negarit Gazette of the Federal Democratic Republic of Ethiopia, 10th year No 35 Addis Ababa 17 April 2004. See also Article 27 of FDRE pardon proclamation

CHAPTER THREE

THE IMPLEMENTATION OF PARDON IN SNNPRS: THE LAW AND THE PRACTICE

3.1. Introduction

In SNNPRS pardon began in 1998.¹⁷³ In SNNPRS with regard to pardon it is necessary to proclaim effective and efficient granting pardon procedure that keep the benefit of the people, government as well as prisoners, through compromising Federal criminal law and other laws' provisions with regional constitution regarding granting pardon and enacted a new pardon proclamation, proclamation No. 157/2015, by amending other issues not covered by the old granting pardon procedure proclamation No. 99/2006. As a result it has become necessary to promulgate clear and detail structure and operation of procedure of pardon and necessary to make the standard of pardon Granting more clear by providing the details of crimes and situation which are not admissible for pardon a new Granting regulation no. 141/2015 approved and implemented. Following this enact and prepare implementation SNNPPRS select and recruit prisoner's directives no. 6/2015.

There are number of prisoners benefiting of pardon in SNNPRS prison institutions from 1999 E.C. to 2013 E.C. are: - 73,896 Males and 2,999 Females and Totally 76,895 prisoner's benefits of pardon.¹⁷⁴

3.2. The scope of application of pardon in SNNPRS

When we look at the Scope of Application of SNNPRS pardon proclamation, regulation and directives, applicable on penalties rendered on criminal cases by regional state court but does not apply to :-

¹⁷³ SNNPRS six year work implementation report, 2004, and Interview conducted with Mr. Biruk Tesfaye, head of Pardon Board Office, Attorney General of SNNPRS, Hawassa, July 2021.

¹⁷⁴ The pardon granted annually between the state government and the pardon for inmates in the SNNPRS prison institution from 1999 E.C. to 2004 E.C. The SNNPRS pardon board has been talks with the SNNPRS government since 2005 E.C. Twice a year the prisoners were able to benefit from the pardon, and however, because of the second round of amendment of pardon laws in 2007 E.C. and 2008 E.C. could not be pardoned.

- The Decision on federal criminal matters given by regional courts delegating the federal courts.¹⁷⁵
- Besides, not applicable Criminal offence on humanity that stated under article 28 in regional constitution,¹⁷⁶
- Death sentences sentenced by regional courts, Decision given by Federal courts on federal crime matters and concerning other offences that inhibit pardon shall be decided by regulation and directive.¹⁷⁷

Moreover, the SNNPRS Pardon Proclamation stipulates that prisoners in the region can only be pardoned by the SNNPR chief executives after receiving a final sentence by the southern regional state courts.¹⁷⁸

According to Proclamation No. 1174/2019 Article 46 explicitly provided that a prisoner who has received a final court verdict may ask to be transferred to a prison where his family live or to be transferred from a federal to regional or from regional to federal or from one federal to another federal prison and may be transferred to such prison upon the approval of the Commission.¹⁷⁹ The researcher interview conducted with the head of the prison institution, how the pardon process is done, when they were transferred from one prison to another, the respondent said that the pardon filtered/recruited by the committee and this committee recruit the prisoners send to the SNNPRS board of pardon and the board of pardon again sent back to their original detention center or pardon board.¹⁸⁰

Likewise, the decisions of federal courts in federal criminal cases, as well as federal criminal cases decided on behalf of state courts, death penalty imposed by regional state court will be reviewed and submitted to the Federal pardon Board.¹⁸¹ Most of the Prisoners who have been screened will not be released from prison after the results are sent back to the federal pardon board and not got any solution if sent back to the federal and other Ethiopian region. The researcher interviewed with the prisoners they told me that, their petition of pardon sent to the

¹⁷⁵ SNNPRS pardon proclamation No. 157, art. 3(1)(d)

¹⁷⁶ SNNPRS pardon proclamation No. 157, art. 3(1)(a)

¹⁷⁷ SNNPRS pardon proclamation No. 157, art. 3

¹⁷⁸ SNNPRS pardon regulation art.3

¹⁷⁹ Federal Prison Proclamation, Proclamation No. 1174/2019, Federal Negarit Gazette of the Federal Democratic Republic of Ethiopia, 26th year No 14 Addis Ababa 17th February 2020, Art 46

¹⁸⁰ Interview conducted with Commander Simon kelborea , Kulito prison institution , Halaba, August, 2021,

¹⁸¹ FDRE Proclamation No. 840/2014, Art.4 & also SNNPRS Proclamation No. 157/2015, art 3

federal or other Ethiopian region pardon boards hurt them and they also said that did not obtained any response from federal pardon board and other Ethiopian region pardon board.¹⁸²

Similarly, as we have seen Proclamation No. 157/2015, Article 3, SNNPRS chief executives grant pardons only rendered on criminal cases by SNNPRS regional state court. This means that the Southern Regional board cannot grant pardon to the prisoners who transfer from federal or other Ethiopian regions.

Besides, the petition of pardon takes a long period of time if the petition lodge sent to the federal and other Ethiopian region pardon boards, and on the other hand the prisoners didn't get any response.¹⁸³

In general, with regard to scope of application of pardon, if the petition out of the jurisdiction of SNNPRS pardon board and with respect to transferred prisoners, even though the Prisoners recruited to pardon however, the prisoners did not get any solution or will not be released from prison after the petition of pardon sent to the federal pardon board or other Ethiopian region. Besides, the petition of pardon takes a long period of time. The researcher observes that the current practice with respect to transferred prisoner is incorrect.

3.3. The Establishment of Board of Pardon and pardon recruiting Committee

In addition, the SNNPRS pardon proclamation indicates the establishment of the board of pardon in article 5 and in article 6 of the proclamation, lists the member of the board and with this proclamation the Board has nine permanent members and two persons nominated by the chief executive to represent the society, totally established eleven pardon board members.¹⁸⁴

In SNNPRS Involving the community and victims in the pardon process is important to achieve the goal of pardon. Even though SNNPRS pardon Proclamation No. 157/2015 stipulates two persons nominated by the chief executive to represent the society are the member of the board However, did not specify how the victims would participate.

¹⁸² Interview conducted with Mr. Daniel Tamrie Abiyu, Hosanna prison institution prisoner, Hosanna, August, 2021, Interview conducted with Mr. Abriham Tafese Abolea, Hosanna prison institution prisoner, Hosanna, August, 2021 and also, Interview conducted with Mr. Habitamu Abera Ayeno, Hosanna prison institution prisoner, Hosanna, August, 2021, Interview conducted with Mr. Tamre Mulerea, Kulito prison institution prisoner, Halaba, July, 2021.

¹⁸³ *Ibid* and Interview conducted with Mr. Lolaso Lombaso, Durame prison institution prisoner, Durame, July, 2021

¹⁸⁴ SNNPRS pardon proclamation No. 157, art. Art. 5&6

The pardon Board has the power to examine a petition for pardon lodged and submit recommendation to the chief executive that pardon granted on condition or without condition, in whole or in part, or to carry out the penalty enforcement in simple manner or ratify the penalty if it is found unpardonable and the power to examine the prosecution provided upon the people who granted pardon by chief executive are not fulfilled the precondition or desecrated or the pardon granted with bogus information.¹⁸⁵ All applications in this provision shall be submitted to the President with evidence and a recommendation

With respect to this the head of board of pardon office said that there is an advisory group or technical committee in SNNPRS region composed by the Attorney General and the prisons administration.¹⁸⁶ This advisory group has the power to check the recommendation of the board of pardon; however, this advisory group has not established by laws, besides the powers and duties are not stipulated by laws, however, the power to examine the recommendation of the board of pardon and this violate the principles of transparency and accountability. According to Article 12 of the FDRE and SNNPRS constitutions, provided that “the conduct of affairs of government shall be transparent”.¹⁸⁷ This also creates delaying of pardon or creates bureaucracy.

When we see the procedure of the granting pardon in SNNPRS there is a structured link from the bottom to the top of the region. That is to say, the Board of pardon cannot go to a direct detention center because there are currently 21 prison institutions in the region and it cannot see all of them, so it has delegated its powers to the sub-committee under Regulation No. 141/2008.¹⁸⁸ They are recruited and sent to the pardon board.

In SNNPRS constitution, SNNPRS pardon proclamation, SNNPRS pardon regulation and SNNPRS directives in general at the top the chief executives has the discretion to decide pardons and at the middle there is a Board of pardon which examine petition of pardon and submit recommendation to the chief executive and this board has accountable to chief executive and also at the bottom pardon board deligate its power to pardon recruiting committee to do recruit the prisoner granted pardon and relevant information send to the board of pardon and this committee

¹⁸⁵ SNNPRS pardon proclamation No. 157, art. Art 7

¹⁸⁶ Interview conducted with Mr. Biruk Tesfaye, head of Pardon Board Office, Attorney General of SNNPRS, Hawassa, July 2021

¹⁸⁷ SNNPS FDRE and SNNPRS constitution art 12

¹⁸⁸ SNNPRS pardon proclamation art. 7(2) and SNNPRS pardon regulation art.4

are accountable to the board of pardon. From this we can infer that advisory group advisory group has not established by laws and the powers and duties are not stipulated by laws. However, the power to examine the recommendation of the board of pardon and it also creates delaying of pardon or creates bureaucracy. Besides, this violates the principles of transparency and accountability.

Furthermore, from 2015 the pardon board delegates its powers to lower body for pardon recruiting committee to do recruit the prisoner granted pardon and relevant information send to the pardon board and the duties to ensure improvement of ethics and correction of prisoners who granted pardon by reviewing their background history.¹⁸⁹

In practice the recruiting committee, Focus Group Discussion and observe documents shows that the pardon recruiting committee recruit prisoners without taking into account the petitioner's dangerous disposition, the gravity of the offence.¹⁹⁰ In this regard the SNNPRS pardon regulation article 3 prohibit pardon for pardon but in practice the pardon recruiting committee sent to the board of pardon without any verified evidence and without take in to consider the gravity of offences and without background history of the prisoners.¹⁹¹

Moreover, in prison administration there is a big gap in filtration/recruiting of the behaviour of Criminal offender's improvement in scientific, uniform and transparent manner.¹⁹² Besides behavioural improvement points are not given in transparent manner and not given a manner that describes the improvement of the prisoner's behaviour. Moreover there is a gap with regard to proper handling of evidence and related to the prisoner's rehabilitation.

From pardon recruiting committee the researcher observed that there is a misunderstood and misinterpreted the proclamation, regulations and directives of pardon system.

¹⁸⁹ SNNPRS pardon proclamation art. 7(2) and SNNPRS pardon regulation art. 8(2)

¹⁹⁰ SNNPRS prisons house management commission Halaba zone prison house management institute Kulito sent to board of pardon by file no. H/zone/M/ADM./I/487, date 8/13/2020 G.C., 1. Geremu Mohamed Hassen (age 37) committed Aggravated Homicide, charge on criminal file no. 09716, sentenced life imprisonment by Hadiya zone high court and inter in to prison institution on 10/08/2004 E.C. , 2. Haseama Toenea (age 25) and Nademo Toenea (age 22) committed aggravated homicide, charged on criminal file no. 04855, sentenced 16 years and 6 month by Halaba zone high court and inter in to the prison 20/10/2005 E.C. Focus Group Discussion at Halaba Kulito prison institution

¹⁹¹ *Ibid*

¹⁹² Interview conducted with Commander , Durame prison institution head, Durame, July, 2021,

Besides when interview conducted and FGD discussion with SNNPRS general attorney, Werabe prison administration head, Hosanna recruiting committees and Kulito recruiting committees in Halaba said that the board meets twice a year for the sake only for ceremony to release on mass prisoners in the eve of New Year and Fasika, without compensate to the victim and reconcile with the victims, moreover, the recidivist release on mass from prison then re-arrested without providing precautionary measures against the person who was granted pardon and return to prison after committing a crime instead of grant repeated pardons.¹⁹³ Because, In SNNPRS there are a number of pardon petition sent to pardon board and it is hard to solve in two meeting. Furthermore, the SNNPRS Pardon Proclamation No. 157/2015 of Article 17(1) (a) provides that anyone can request for a pardon at any time after the judgment is made.¹⁹⁴ And the head of board of pardon said that the Board meets at any time upon the call of the chairperson.¹⁹⁵ The researcher infers that the law does not apply because the Board is attending on meeting only twice a year to examine the pardon petitions. Not only that, but prisoners who fulfill the criteria for pardon have the opportunity to be pardoned and released, but the board does not meet regularly and they have to wait for a meeting.

Moreover, the pardon recruitment committee Lack of give awareness of who and why pardon is granted, who must complete at least 1/3 (33%) or 1/2 (50%) of their sentence to be pardoned, and give awareness to reformed and to be law abiding citizens with good conduct in prison institutions.¹⁹⁶

“The petitioner’s confession and repentance, his effort to reconcile with the victim or his family and compensate them, or his ability and willingness to settle the compensation decided with the victim is Considerations of Granting Pardon.”¹⁹⁷ However, in practice the convicted persons receives pardon without reconciliation between pardoned prisoners and victims or his family and without compensate in according to local circumstances, and receiving

¹⁹³ Interview conducted with SNNPRS general attorney , hawassa, 9/07, 2021, and Interview conducted with Commander Simon kelborea , Kulito prison institution head, Halaba, July, 2021 and Focus Group Discussion at Durame Kulito prison institution

¹⁹⁴ SNNPRS pardon proclamation art. 17(1)(a)

¹⁹⁵ Interview conducted with Mr. Biruk Tesfaye, (2021), supra note 405

¹⁹⁶ Interview conducted with Deputy inspector Sisay Girma , Arba Minch prison institution law affairs, Arba Minch, July, 2021 and Interview conducted with Chief inspector Adefris Asnake , Arba Minch prison institution law affairs, Arba Minch, July, 2021

¹⁹⁷ SNNPRS pardon proclamation Art 20(5)

pardons and without paying government money for criminal offender.¹⁹⁸ If the prisoners approved by zone, a special woreda or city security administration.¹⁹⁹ Besides, the elders ask high money to the prisoner but the prisoners can't afford to pay compensation. Under the pardon law, the main problem is the lack of a system in place for prisoners to reach a settlement with the victim or his family.²⁰⁰

3.4. Petition of pardon

Two types Petition of Pardon in SNNPRS

1. According to article 15(2) of SNNPRS pardon proclamation provided that any person convicted for crime and sentenced by a final decision of the court may lodge petition for pardon by himself or through his spouse, close relative, representative or his attorney.²⁰¹
2. As per article 15(4) of SNNPRS pardon proclamation stipulate that SNNPRS General attorney or the state prison administration may lodge on behalf of prisoner's petition for the granting of pardon to the board upon selecting prisoners who deserve pardon in accordance with the regulation or directive.²⁰²

With regard to the time for Lodging Petition for pardon any person lodging petition for pardon at any time after the decision of sentences or Six months after the date of denial of a previous petition or one year after the date of granting if the pardon was partial.²⁰³ In relation to this in an exception puts a petition may be lodged at any time if it is considered urgent and gets approval of three-fourth of the members of the board.²⁰⁴

Furthermore, on the one hand SNNPRS Pardon Proclamation No. 157/2015 of Article 17(1) (a) provides that any person lodging petition for pardon at any time after the decision of

¹⁹⁸ Interview conducted with Chief Sergeant Serjeba Hadinuri , Kulito prison institution head, Halaba, July, 2021

¹⁹⁹ Interview conducted with Mr. Masebo Mala,, Arba Minch prison institution prisoner, Arba Minch, July, 2021, Interview conducted with Commander Simon kelborea , Kulito prison institution head, Halaba, July, 2021 and Focus Group Discussion at Durame Kulito prison institution, Interview conducted with Chief inspector Adefris Asnake , Arba Minch prison institution law affairs, Arba Minch, July, 2021

²⁰⁰ Interview conducted with Commander Moges Bafe, Hosanna prison institution head, Hosanna, August, 2021, and Interview conducted with Abdulkadir Lolaso, Kulito Zone public prosecutor department head, Halaba, July, 2021 and also Interview conducted with Getiso Detamo Mekebo, Hadiya Zone public prosecutor department head, Hosanna, August, 2021.

²⁰¹ SNNPRS pardon proclamation No. 157, art. 15(2)

²⁰² SNNPRS pardon proclamation No. 157, art. 15(2)

²⁰³ SNNPRS pardon proclamation No. 157, art. 17(1)

²⁰⁴ SNNPRS pardon proclamation No. 157, art. 17(1)

sentences.²⁰⁵ On the other hand SNNPRS directive no. 6/2008 article 4 of the directives stipulated that, the prisoner must stay in prison at least 1/3 or 1/2 of the prison.²⁰⁶ Therefore, it seems there could be inconsistency among the two provisions application. Because, the researched interviewed the prisoners and pardon recruiting committee unless the prisoner stay in prison at least 1/3 or 1/2 of penalty of imprisonment the automatically excluded from the process of pardon.²⁰⁷

3.5. Considerations for Granting Pardon

Without prejudice of the above procedure, any petitioner must be required to comply with the conditions stipulates under SNNPRS pardon laws in order to be eligible for pardon. Therefore, the prisoner before petition of pardon the prisoner asks himself/herself does the crime i had punished an opportunity for pardon? Can I get enough evidence of the reform my behavior in prison? And do I meet the conditions stipulates in the laws? For this question must find a positive answer.

Article 28 of SNNPRS Constitution stipulates that Criminal liability of persons who commit crimes against humanity, so defined by international agreements ratified by Ethiopia and by other laws of Ethiopia, such as genocide, summary executions, forcible disappearances or torture shall not be granted by pardon.²⁰⁸ Acontrario reading of the aforementioned SNNPRS constitutions provision it is important to note that other than the stated offenses all offences are pardonable, if fulfill the procedure or the conditions followed applies for a pardon and not contrary to the object of pardon. In contrast when we look at SNNPRS pardon regulation no. 141/2015 article 3 of the provision Rape, abduction, homosexual, a prisoner who committed aggravated robbery crime punished above 5 years, Aggravated homicide, all corruption, sentenced by human trafficking, forgery or use forged instruments, Crimes against revenue or financial benefits of the region or crimes on public infrastructures and a person who granted pardon found convicted on another crime, a prisoner against whom prosecutor filed an appeal or cassation complaint, a prisoner who has been attempted to escape or escaped from prisoner administration or punished on grave disciplinary infringement in principle, have been identified

²⁰⁵ SNNPRS pardon proclamation art. 17(1)(a)

²⁰⁶ SNNPRS pardon directive art.4

²⁰⁷ Interview conducted with prisoner Mr. Mamush Bekele and Ato. Rediwan Feyisa, Dilla prison institution and Halaba prison institution respectively (2021)

²⁰⁸ SNNPRS constitution art.28 and FDRE Constitution art 28

as non-pardonable crimes.²⁰⁹ From this we can understand that the SNNPRS pardon regulations are contradict from SNNPRS pardon objects. Because the main object of pardons is to ensure the interests of citizens, government and criminals, to allow criminals to reintegrate into society, and to make them productive citizens after confirming that they have repented and reformed.²¹⁰ In addition, the criminal justice policy clearly stipulates that in a system based on equality and transparency the prisoner's behavior changes during their time in prison, productivity effort, good ethics and other efforts the offenders will benefit or grant pardon.²¹¹ For instance in federal, Crimes such as corruption, human trafficking, smuggling, terrorism etc. are pardonable however, should be given special attention before granting pardon.²¹² But in SNNPRS pardon regulation if a petitioner commite list of article 3 crimes automatically exclude from the process of pardon.

With respect to these non-pardonable crimes, the study is addressed trough Group Discussion, interview of prisoners, prison institution head, lawyer, board of pardon and attorney general said that the law itself creates an obstacle because, article 28 of the constitution already provided non-pardonable crimes you can't prohibit other than the constitution provided. Therefore, this is unconstitutional and contrary to the object of pardon. Besides, the head of board of pardon said that the law itself creates an obstacle. First we are thinking that SNNPRS pardon proclamation solve a lot problems, But, the enacted regulation create an obstacle. Even though pardon is not a right, if u say fulfill the requirement or condition provided by law we can't deny him/her pardon.²¹³

Generally, article 28 of SNNPRS Constitution listed non-pardonable offenses, other than those crimes, all offenses are pardonable if the offender fulfill the requirements. In contrast the SNNPRS pardon regulation stipulates non-pardonable crimes. From this we can infer that the SNNPRS pardon regulations are contradict from SNNPRS constitution and the object of pardon. And the SNNPRS pardon regulation more interested in punishing the offender. As we know the

²⁰⁹ SNNPRS pardon regulation art. 3

²¹⁰ FDRE Pardon Proclamation No. 840/2014,art 3 and see SNNPRS pardon Proclamation No. 157/2015, Preamble.

²¹¹ Section 5.3, The Criminal Justice Policy of the Federal Democratic Republic of Ethiopia, 2011, p.47

²¹² FDRE pardon directive 1/2007 art. 11

²¹³ Interview conducted with Mr. Biruk Tesfaye, (2021), supra note 405 and also Interview conducted with Mr. Aklilu Haile, Shinshicho public prosecutor (2021), Interview conducted with Mr. Samson Hirifo, west badewacho public prosecutor (2021), and also Interview conducted with Markos Petros , Hadiya Zone public prosecutor(2021), Focus Group Discussion at hosanna prison institution

principal justification behind pardon is the need to rehabilitate and reform criminals. Because simply denying the pardon would discourage the prisoners to improve his/her behavior in prison and also it is contrary to the objectives of pardon.

However, prisoner who has served one third of his imprisonment term and has a certificate of medical board that verifies as he has been affected by HIV, cancer, diabetes and other diseases, which cannot cured by medical treatment or a disabled prisoner who continuously requires the prison administration help for his or her movement and who has served one third penalty of imprisonment, A mother who enters a prison institution with a baby (for the child's safety); A prisoner who had attained the age of 60 years and above, If he has reconciled or attempted to reconcile with the victim or his family and he has to pay a fine to the government or assure that he has unable to pay from social court about his inability, and he has undergone one-third of the sentence of imprisonment, he may be pardoned in a special case, even if it is an non-pardonable offense.²¹⁴

Another point is that any person who needs pardons for pardoning offenses is required to provide proof of his/her reform and good behavior from prison institutions. In this regard the directive stipulate without preconditions for various crimes at least, ½, 1/3 and he was sentenced to 12 years and six months in sentence of imprisonment, For example, a person convicted of crimes such as kidnapping, wildlife killing, hiding (Receiving), etc., must be sentenced to serve one-third of his/her penalty of imprisonment in order to be pardoned. A person sentenced to life imprisonment in prison for pardonable crime he has undergone 12 years and 6 months penalty of imprisonment is reduced to 25 years in prison.²¹⁵ However, a person who has been convicted of perjury or false testimony without finish one-third of his / her imprisonment will be entitled to release on an unconditional pardon.²¹⁶

Prisoners who Penalties for homicide, attempt to homicide, bodily injury, and property damage have been sentenced to 5 years or more sentenced in order to benefit for pardon he has assure

²¹⁴ SNNPRS pardon regulation No. 141, art. 3(2)

²¹⁵ SNNPRS pardon directives art. 4

²¹⁶ SNNPRS pardon directives art. 4(2)

that reconciled or attempted to reconcile with the victim or his family or have failed for various reasons are required by the SNNPRS directives.²¹⁷

3.6. Monitoring mechanisms of pardon

When we look at the monitoring mechanisms of reintegrating criminal offender in to the community after granting pardon, however, the SNNPRS directive in article 6 stipulates that zone; city administration, woreda or special woreda security administration departments or offices after release on pardon receive the prisoners from prison institution in collaboration with the community elders and follow the reform and the behavioral change of the prisoner when join the community.²¹⁸ In this regard the researcher interview conduct with head of board of pardon and heads of prison institutions and pardon recruiting committee said that even though the directives clearly states when prisoners release from prison they will be divided into different zone, wereda and kebeles but there is no way they can take that responsibility and implement it. There is no such thing in southern state independently follows and reports the reform and the behavioral change of the prisoners to the concerned body.²¹⁹

Generally in this regard The laws requires city administration, woreda or special woreda security administration departments or offices follow the reform and the behavioral change of the prisoner after release on pardon or when join the community.²²⁰ When we see the practice there is the no responsible and monitoring organ to the prisoners after granting pardon enters into zone, wereda and kebeles and no one can take that this responsibility and implement to it.

²¹⁷ SNNPRS pardon directives art. 5

²¹⁸ SNNPRS pardon directives art. 6

²¹⁹ Interview conducted with Commander Awel Hussein, Werabe prison institution head, Werabe, July, 2021, Interview conducted with Mr. Biruk Tesfaye, Interview conducted with deputy inspector Tesfaye Sugeabo,(2021)

²²⁰ SNNPRS pardon directives art. 6

CHAPTER FOUR

Conclusion and Recommendations

4.1. Conclusion

The role of implementing organs of pardon under criminal justice system should be evaluated based on the clearly defined objectives of pardon system. The main objectives of pardon is to ensure the interests of the public, government and offenders by re-integrating criminal offenders into the community and make them productive citizens upon ascertaining that they have repented and reformed. Likewise, in the Ethiopian criminal justice system clearly provided that in a system based on equality and transparency the prisoner's behavior changes during their time in prison, productivity effort, good ethics and other efforts, the offenders will benefit of pardon. Other than Article 28 of SNNPRS Constitution stated offenses all crimes are pardonable, if they fulfill the procedure or the conditions followed applies for a pardon. In contrast the SNNPRS pardon regulation Rape, abduction, homosexual, a prisoner who committed aggravated robbery crime punished above 5 years, Aggravated homicide, all corruption, sentenced by human trafficking, forgery or use forged instruments, Crimes against revenue or financial benefits of the region or crimes on public infrastructures and so on, have been identified as non-pardonable crimes. From this we can infer that the SNNPRS pardon regulations are contradict from state constitution and the object of pardon. The SNNPRS pardon regulation is more interested in punishing the offender. The main goals of the pardon is to protect the interests of the public, governments and offenders by reintegrating offenders into communities and making them productive citizens knowing that they have repented and rehabilitated themselves. Likewise, in the Ethiopian criminal justice policy clearly provided that in a system based on equality and transparency the prisoner's behavior changes during their time in prison, productivity effort, good ethics and other efforts, the offenders will benefit of pardon and the principal justification behind pardon is the need to rehabilitate and reform criminals. Because simply denying the pardon would discourage the prisoners to improve his/her behavior in prison and also it is contrary to the objectives of pardon. However, in light with the objectives of pardon should be given special attention before granting pardon. Therefore, researcher concludes that pardon regulations are unconstitutional and contrary the object of pardon.

Furthermore, out of the jurisdiction of SNNPRS pardon board and transferred prisoners. Prisoners who have been recruited will not be released from prison after the petition of pardon sent to the federal pardon board or other Ethiopian region and did not get any solution if the petition of pardon sent to the federal or other Ethiopian region. On the one hand the petition of pardon takes a long period of time and on the other hand the prisoners didn't get any response or solution. The researcher concludes that the current practice of pardoning system with regard to transferred prisoners believes that incorrect.

In SNNPRS there is advisory group composed by the Attorney General and the prisons administration appointed by the president. This advisory group is the power to check the recommendation of the board; however, this group has not established by laws, however the power to examine the recommendation of the board of pardon. This violates the principles of transparency and accountability. Because this advisory groups their powers and duties not clearly provided by law and they are not established by the laws. The researcher believes that this violate the transparency and accountability principle

In prison administration there is a big gap in filtration/recruiting of the behaviour of Criminal offender's improvement in scientific, uniform and transparent manner. Besides behavioural improvement points are not given in transparent manner and not given a manner that describes the improvement of the prisoner's behaviour. Moreover there is a gap with regard to proper handling of evidence related to proper handling of evidence related to the prisoner's rehabilitation.

The pardon board meets twice a year for the sake of only for ceremony to release on mass prisoners in the eve of New Year and Fasika. The researcher concludes that the law does not apply because the Board is attending on meeting only twice a year to examine the pardon petitions. This leads to the prisoners release without compensate to the victim and reconcile with the victims and the recidivist release on mass. Not only that, but prisoners who fulfill the criteria and the opportunity to be pardoned however the board does not meet regularly and they have to wait for a meeting to release.

The convicted person receives pardon without reconcile with victims or his family and without compensate in according to local circumstances, and receiving pardons if the prisoners approved by zone, a special woreda or city security administration. Besides, the elders ask high money to

the prisoner but the prisoners can't afford to pay compensation. Under the pardon law, the main problem is the lack of a system in place for prisoners to reach a settlement with the victim or his family.

When we look at the directives No.6/2015 even though, it is expressly provided that the monitoring mechanisms of the prisoners or detainee after granting pardon. However, when we see in practice prisoners release from prison they will be divided into different zone, wereda and kebeles but there is no one can take that the responsibility and implement it.

At zone and special wereda level verifying or screening of prisoner's petition of pardon is not in line with the proclamation, regulation and directives and it is a great challenge to enforce the pardon law and regulation.

From pardon recruiting committee the researcher observe that there is a misunderstood and misinterpreted the proclamation, regulations and directives of pardon system. Because of this the recruitment committee recruitment negligently recruits the prisoner then sent to the board of pardon.

4.2. Recommendation

Problems of pardons are identified in this study. The following solution are provided for those specific problems

- The researcher recommends that it should be amend the SNNPRS pardon regulation in light with the SNNPRS constitution and the object of pardon, by setting various criteria or conditions. Because simply denying the pardon would discourage the prisoners to improve his/her behavior in prison and also it is contrary to the objectives of pardon.
- Out of the jurisdiction of SNNPRS pardon board and transferred prisoners, the petition of pardon takes a long period of time and also did not get any solution. In this regard the researcher recommends that the pardon law is silent with respect to time frame of deciding pardon petitions. In this regard the researcher recommends that time frame shall be prescribed in pardon laws and the pardon petition should be treated in SNNPRS board of pardon.
- The researcher recommends that in order to resolve public grievances related to the pardon and to ensure a fair pardon, as well as to help process pardons more quickly, the

members of the Board should attending a meeting in a short period of time. Because, there are a number of pardon petition in SNNPRS and it is hard to solve in two meeting and this will help to correct the mistakes made on mass release of the prisoners in the SNNPRS. In particular, the researcher recommends that he the board of pardon hold a regular meeting once a month.

- The Advisory group is not established by laws. The researcher believes that this violates the principles of transparency and accountability and illegal, this also create delaying pardon or create bureaucracy. Therefore the researcher recommend that avoid this advisory group and the chief executive should the power to examine the recommendation of pardon board and grant pardon
- The researcher recommend to the pardon recruitment committees develop working skills; recognizing personal and collective accountability, it is necessary to create a fair and transparent process by processing the pardon petition of prisoners in accordance with the proclamation, regulations and directives.
- The researcher recommended that the prison administration must work with the justice sectors and elders to reconcile with the victim before the prisoner release on pardon. Furthermore, the crime needs reconciliation; formulate similar or at least clear enforceable action to minimize the grievance arising from the victims or his family, prisoners and the societies. In this regard the researcher suggest that it should be established the responsible organ to reach a settlement with the victim or his family before the prisoners granting pardon.
- The researcher also recommends that improving the behaviour of criminal offenders should be evaluated in a scientific, uniform and transparent manner
- The researcher recommends organize information by establishing a mechanism to explain the behavior of prisoners in a prison institutions;
- The researcher recommends to ensure that they have committed a crime and been pardoned, and who have returned to prison after committing a crime do not participate in the re-pardon process.
- The researcher recommend that it must be established the responsible monitoring organ to the prisoners after granting pardon enter into zone, wereda and kebeles
- The researcher recommend that the pardon recruit committee should work diligently to

create results by ensuring that the team is motivated and that there is personal and collective accountability.

- I also suggest various studies are needed to promote pardon.

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ANNEXES

INTERVIEW GUIDE QUESTIONS FOR SNNPRS PRISON COMMISSIONS

I am Addisu Solomon, LL.M student at AMU, School of Law. I am doing my LL.M thesis on: **The Implementation of Pardon in South Nations, Nationalities and Peoples' Regional State: Law and Practice.** I assure you that the information in the interview is confidential not be transferred to any individual and institution but for only educational purpose only. Therefore, I kindly requested to help me in filling this questionnaire.

Thanks in Advance!!!

Name (optional) _____

Position _____

Responsibility _____

Work experience _____

Time and place of the interview _____

1. Police and some people complain that prisoners were released on pardon, they are committing another crime. How do you see this issue?
2. What kind of work is being done to let prisoners know that they will be pardoned when they receive it?
3. Does the SNNPRS pardon regulation contrary to the SNNPRS constitution and the object of the pardon?
4. What are the roles of stakeholders in the process of granting pardon?
5. What are the implication of pardon law and its implementation in SNNPRS?
6. Is there monitoring for pardoned prisoners? If not, who share is it?
7. Private victim or his families and some individuals complained that detainees were released without take in to consider the petitioner's dangerous disposition and the gravity of the offence and without reconciliation with the victims and his families. How do you see this issue?
8. How do you see the impact on victim or his family when the prisoner released on pardon without compensate and reconcile them?

INTERVIEW GUIDE QUESTIONS FOR SNNPRS BOARD OF PARDON

I am Addisu Solomon, LL.M student at AMU, School of Law. I am doing my LL.M thesis on: **The Implementation of Pardon in South Nations, Nationalities and Peoples' Regional State: Law and Practice.** I assure you that the information in the interview is confidential not be transferred to any individual and institution but for only educational purpose only. Therefore, I kindly requested to help me in filling this questionnaire.

Thanks in Advance!!!

Name (optional) _____

Position _____

Responsibility _____

Work experience _____

Time and place of the interview _____

1. How long will the prisoner's petition of pardon be answered?
2. How do prisoners who complain about decision of pardon? Is there a system in place?
3. Does the SNNPRS pardon regulation contrary to the SNNPRS constitution and the object of the pardon?
4. What does pardon selection look like? What are the problems?
5. What are the implication of pardon law and its implementation in SNNPRS?
6. Private victim or his families and some individuals complained that criminal offenders were released without take in to consider the petitioner's dangerous disposition and the gravity of the offence and without reconciliation with the victims and his families. How do you see this issue?
7. To what extent do apply the condition to be considered before pardon can be made?
8. How do you monitor prisoners when they join the community after they have been pardoned?
9. Are the pardon procedures transparent and impartial?
10. Is there a mechanism in place by the pardon board to first compensate a victim who has been pardoned?

11. How do you evaluate the pardon law it in terms of protecting the interests of the public, the government and prisoners?

12. Any other comments?

INTERVIEW GUIDE QUESTIONS FOR SNNPRS ATTORNEY GENERAL OFFICE

I am Addisu Solomon, LL.M student at AMU, School of Law. I am doing my LL.M thesis on: **The Implementation of Pardon in South Nations, Nationalities and Peoples' Regional State: Law and Practice.** I assure you that the information in the interview is confidential not be passed to any individual and institution but for only educational purpose only. Therefore, I kindly requested to help me in filling this questionnaire.

Thanks in Advance!!!

Name (optional) _____

Position _____

Responsibility _____

Work experience _____

Time and place of the interview _____

1. What are the obstacles to the effectively implement the rules and regulations of granting pardon in SNNPRS?
2. What are the implication of pardon law and its implementation in SNNPRS?
3. Private victim or his families and some individuals complained that criminal offenders were released without take in to consider the petitioner's dangerous disposition and the gravity of the offence and without reconciliation with the victims and his families. How do you see this issue?
4. How do you see the impact on victim or his family when the prisoner released on pardon without compensate and reconcile them?
5. To what extent do apply the condition to be considered before pardon can be made?
6. What does pardon filter look like? What are the problems?
7. How do you evaluate the pardon law it in terms of protecting the interests of the public, the government and prisoners?
8. Any other comments?

**INTERVIEW GUIDE QUESTIONS FOR SNNPRS PARDON RECRUITING
COMMITTEE**

I am Addisu Solomon, LL.M student at AMU, School of Law. I am doing my LL.M thesis on: **The Implementation of Pardon in South Nations, Nationalities and Peoples' Regional State: Law and Practice.** I assure you that the information in the interview is confidential not be transferred to any individual and institution but for only educational purpose only. Therefore, I kindly requested to help me in filling this questionnaire.

Thanks in Advance!!!

Name (optional) _____

Position _____

Responsibility _____

Work experience _____

Time and place of the interview _____

1. What are the implication of pardon law and its implementation in SNNPRS?
2. How long will the prisoner's petition of pardon be answered?
3. How do you monitor prisoners when they join the community after they have been pardoned?
4. How do prisoners who complain about decision of pardon? Is there a system in place?
5. What does pardon filter look like? What are the problems?
6. Private victim or his families and some individuals complained that detainees were released without take in to consider the petitioner's dangerous disposition and the gravity of the offence and without reconciliation with the victims and his families. How do you see this issue?
7. How do you see the impact on victim or his family when the prisoner released on pardon without compensate and reconcile them?
8. To what extent do apply the condition to be considered before pardon can be made?
9. Are the pardon procedures transparent and impartial?

10. Is there a mechanism in place by the pardon recruiting committee to first compensate a victim who has been pardoned?
11. What are the obstacles to the effectively implement the rules and regulations of granting pardon in SNNPRS?
12. Any other comments?

INTERVIEW GUIDE QUESTIONS FOR SNNPRS LAWYERS

I am Addisu Solomon, LL.M student at AMU, School of Law. I am doing my LL.M thesis on: **The Implementation of Pardon in South Nations, Nationalities and Peoples' Regional State: Law and Practice.** I assure you that the information in the interview is confidential not be transferred to any individual and institution but for only educational purpose only. Therefore, I kindly requested to help me in filling this questionnaire.

Thanks in Advance!!!

Name (optional) _____

Position _____

Responsibility _____

Work experience _____

Time and place of the interview _____

1. What are the implication of pardon law and their implementation in SNNPRS?
2. Private victim or his families and some individuals complained that detainees were released without take in to consider the petitioner's dangerous disposition and the gravity of the offence and without reconciliation with the victims and his families. How do you see this issue?
3. How do you see the impact on victim or his family when the prisoner released on pardon without compensate and reconcile them?
4. How do you see pardons and political interest of executive's bodies?
5. Are the pardons procedures transparent and impartial?
6. How do you evaluate the pardon law it in terms of protecting the interests of the public, the government and prisoners?
7. Any other comments?

INTERVIEW GUIDE QUESTIONS FOR SNNPRS CHIEF EXECUTIVE

I am Addisu Solomon, LL.M student at AMU, School of Law. I am doing my LL.M thesis on: **The Implementation of Pardon in South Nations, Nationalities and Peoples' Regional State: Law and Practice.** I assure you that the information in the interview is confidential not be transferred to any individual and institution but for only educational purpose only. Therefore, I kindly requested to help me in filling this questionnaire.

Thanks in Advance!!!

Name (optional) _____

Position _____

Responsibility _____

Work experience _____

Time and place of the interview _____

1. What are the implication of pardon law and its implementation in SNNPRS?
2. Private victim or his families and some individuals complained that detainees were released without take in to consider the petitioner's dangerous disposition and the gravity of the offence and without reconciliation with the victims and his families. How do you see this issue?
3. How do you see the impact of pardon on victim or his family, when the prisoner released without compensate and reconcile them?
4. To what extent do apply the condition to be considered before pardon can be made?
5. How do you evaluate the pardon law it in terms of protecting the interests of the public, the government and prisoners?
6. Any other comments?

INTERVIEW GUIDE QUESTIONS FOR SNNPRS VICTIMS OR HIS FAMILY

I am Addisu Solomon, LL.M student at AMU, School of Law. I am doing my LL.M thesis on: **The Implementation of Pardon in South Nations, Nationalities and Peoples' Regional State: Law and Practice.** I assure you that the information in the interview is confidential not be passed to any individual and institution but for only educational purpose only. Therefore, I kindly requested to help me in filling this questionnaire.

Thanks in Advance!!!

Name (optional) _____

Position _____

Responsibility _____

Work experience _____

Time and place of the interview _____

1. Has the prisoner compensate and reconciled with you before he was released on pardon?
2. How do you see the pardon system as the victim or his family?
3. What impact did the pardon decision have on you and your family?
4. Are the pardon procedures transparent and impartial?
5. Any other comments?

INTERVIEW GUIDE QUESTIONS FOR PRISONERS

I am Addisu Solomon, LL.M student at AMU, School of Law. I am doing my LL.M thesis on: **The Implementation of Pardon in South Nations, Nationalities and Peoples' Regional State: Law and Practice.** I assure you that the information in the interview is confidential not be passed to any individual and institution but for only educational purpose only. Therefore, I kindly requested to help me in filling this questionnaire.

Thanks in Advance!!!

Name (optional) _____

Position _____

Responsibility _____

Time and place of the interview _____

1. Are the pardon procedures transparent and impartial?
2. How long will the prisoner's petition of pardon be answered?
3. How do prisoners who complain about decision of pardon? Is there a system in place?
4. What does pardon filter look like? What are the problems?
5. As the head prisoner, how do you see the pardon?
6. Any other comments?

**Focus Group Discussion (FGD) GUIDE QUESTIONS FOR SNNPRS PARDON
RECRUITING COMMITTEE**

I am Addisu Solomon, LL.M student at AMU, School of Law. I am doing my LL.M thesis on: **The Implementation of Pardon in South Nations, Nationalities and Peoples’ Regional State: Law and Practice.** I assure you that the information in the interview is confidential not be transferred to any individual and institution but for only educational purpose only. Therefore, I kindly requested to help me in discussing below provided questions.

Thanks in Advance!!!

Time and place of the discussion _____

Name of members of the FGD (optional)

1 _____

2. _____

3 _____

4 _____

5 _____

6 _____

7 _____

1. Does the SNNPRS pardon regulation violate the SNNPRS constitution and contrary to the object of the pardon?
2. What are the limitations of pardoning power in SNNPRS? And what are the problems?
3. What looks likes the selection/recruitment of pardon? And what are the problems?
4. What are the monitoring mechanisms of reintegrating criminal offender in to the community after granting pardon?

Key Informant Interview Reports

No.	Organization or Institution they represent	Profession, job title, or power	Work experience
1	Board of pardon office	Head of board of pardon office	10 years
2	Attorney General of SNNPRS	Public prosecutor	24 years
3	Attorney General of SNNPRS	Public prosecutor	10years
4	Attorney General of SNNPRS	Public prosecutor	12 years
5	Attorney General of SNNPRS	Public prosecutor	12 years
6	Kulito prison institutions head	Head of prison institution	30 years
7	Kulito prison institutions recruiting committee	Prisoner supervisor	12 years
8	Kulito prison institutions recruiting committee	Security and administrators of prisoners	10 years
9	Kulito prison institutions prisoner	Prisoner	-
10	Hosanna prison institutions head	Head of prison institution	14 years
11	Hosanna prison institutions recruiting committee	Security and administrators of prisoners	23 years
12	Hosanna prison institutions prisoner	Prisoner	-
13	Hosanna prison institutions prisoner	Prisoner	-
14	Arba Minch prison institutions recruiting committee	Reform and law abiding coordinator	30 years
15	Arba Minch prison institutions recruiting committee	Law affairs	10 years
16	Arba Minch prison institutions prisoner	Prisoner	-
17	Arba Minch prison institution prisoner	Prisoner	-
18	Durame prison institutions head	Head of prison institution	14
19	Durame prison institutions recruiting committee	Law affairs	20 years
20	Durame prison institutions prisoner	Prisoner	-
21	Wolaita Sodo prison institutions head	Head of prison institution	14 years
22	Wolaita Sodo prison institutions prisoner	Prisoner	-
23	Dilla prison institutions head	Head of prison institution	22 years
24	Dilla prison institutions prisoner	Prisoner	-
25	Werabe prison institutions recruiting committee	Head of prison institution	28 years
26	Arba Minch prison institutions prisoner	Prisoner	-
27	Lawyer	Hadiya zone judge	6 years
28	Lawyer	Hadiya zone public prosecutor	26 years
29	Lawyer	Hadiya zone public prosecutor	8 years
30	Lawyer	Hadiya zone public	4 years

		prosecutor	
31	Lawyer	Hadiya zone public prosecutor	3 years
32	Lawyer	Shinshicho public prosecutor	3 years

Numbers of prisoner benefiting from SNNPRS prison institution from 1999 E.C. to 2013 E.C.²²¹

No.	Month and Year of pardon	Gender		Total
		Male	Female	
1	November 1999 E.C.	3,980	113	4,093
2	Pagume 1999 E.C	4,759	196	4,955
3	September 2001 E.C.	4,531	144	4,675
4	September 2002 E.C.	3,439	109	3,548
5	September 2003 E.C.	5,270	168	5,438
6	September 2004 E.C.	5,499	172	5,671
7	September 2005 E.C.	5,222	173	5,395
	April 2005 E.C.	3,245	139	3,384
8	September 2006 E.C.	1,822	95	1,917
	may 2006 E.C.	2,243	172	2,415
9	September 2007 E.C.	1,694	97	1,791
10	September 2008 E.C.	4,288	208	4,496

²²¹ The pardon granted annually between the state government and the pardon for inmates in the SNNPRS prison institution from 1999 E.C. to 2004 E.C. The SNNPRS pardon board has been talks with the SNNPRS government since 2005 E.C. Twice a year the prisoners were able to benefit from the pardon, and however, because of the second round of amendment of pardon laws in 2007 E.C. and 2008 E.C. could not be pardoned.

11	September 2009 E.C.	2,887	158	3,045
	March 2009 E.C.	2,783	133	2,916
12	September 2010 E.C.	2,948	151	3,099
	March 2010 E.C.	2,120	113	2,233
13	September 2011 E.C.	13,849	497	14,346
	April 2011 E.C.	2,298	107	2,405
14	September 2012 E.C.	2260	96	2356
	March 2012 E.C.	2300	115	2415
15	September 2013 E.C.	102	2	104
	March 2013 E.C.	917	52	969
	Total	73,896	2,999	76,895