



574 Prisoners Pardoned & Ordered Released in Somaliland Much More Needs to be Done in the Fight Against COVID-19

13 April 2020: Hargeisa, Somaliland

With the rapid and deadly spread of the coronavirus, humanity is being called to be at its best, both individually and collectively. Leaders around the world, at the local, national and international level, are being tested as never before. This is not the time for business as usual. Those who have the power and the responsibility to protect the vulnerable must do so without hesitation, without delay and to the maximum extent possible.

President Muse Bihi Abdi heeded this call to act on 1 April 2020 when he pardoned 574 prisoners, shielding persons detained in Somaliland's prisons, the prison officers in charge of their care, and the surrounding communities. With the first positive cases of COVID-19 announced in Somaliland on 31 March 2020, the coronavirus is no longer an external threat, and this move could not have come at a better time.

Unfortunately, this pardon has not had the desired effect of depopulating overcrowded prisons. Both prisons and police stations continue to hold large numbers of people. Detainees at prisons are held in cells with dozens of other people and have very limited regular access to basic sanitation items like soap. It is impossible to follow social distancing and hygiene guidelines in this environment. When the coronavirus enters prisons, it will spread quickly. *Horizon Institute* is publishing this statement to underline the urgent fact that much more needs to be done, and it needs to be done now.

Under the law in Somaliland, a request for pardon must be made through the Attorney-General, even though the ultimate decision rests with the President. It is traditional for the President to issue pardons to prisoners at the end of Ramadan. The spectre of COVID-19 has made it necessary to bring forward the date of the annual releases.

In a letter dated 25 March 2020, the Attorney-General gave clear instructions to the Custodial Corps about who qualifies for a presidential pardon under the unusual circumstances of COVID-19. The letter states that prisoners convicted of low-level crimes (excluding murder, attempted murder, grievous hurt, crimes against the state, rape, trading drugs, and other serious crimes) can be put forward, ***provided they had already served half of their sentence***. Prisoners who had completed their sentences and had remained in prison because of compensation owed to the victim could also be included if the money owed was less than \$10,000. The letter gives victims the right to pursue payment of compensation through the civil courts.

Given the gravity of the situation facing prisons, *Horizon* finds no justification for insisting that prisoners accused of minor crimes must remain incarcerated just because they had served less than half their time. This policy keeps a substantial number of prisoners locked up, including juveniles. At Borama Prison, a group of six youths convicted of attempted hurt and robbery did not benefit because they were one month shy of serving half of a short prison term of six-months.

The provision that prisoners who owe civil compensation will not benefit unless they had served their full sentence is also difficult to understand.

The implementation of the pardon also raises a number of serious concerns. Every prisoner who had completed his or her sentence but owed less than \$10,000 has not, in fact, been freed. *Horizon* is aware of a number of prisoners who should have been covered by the pardon, whose families had been told by the prison to prepare for their release, but who remain behind bars. They include two teenage boys, one of whom is a street child, convicted of breaking the side mirror on a car. Their families could not afford the \$195 dollars in compensation to the victim. The father of one of the boys asked how he is expected to pay when he does not have a job.

At Borama Prison, no prisoner who owes civil compensation was pardoned, including a man convicted of theft who has overstayed his sentence by more than a year and owes over \$8,000 in compensation. In Burao, a young man who finished his sentence for theft in August 2019 and who owes \$1,603 was stricken off the pardon list without any explanation. At Gabiley Prison, a total of 58 prisoners were ordered pardoned. The prison was later instructed not to release 3 of these prisoners because of civil compensation owed.

If the intention behind the pardon of 574 prisoners was to depopulate the prisons, this has not happened. Convicted people serving their sentence at police stations, for lack of prison space, had not been included in the pardon. They have now been transferred to prisons, filling the emptied cells. Since 1 April 2020, Hargeisa Prison received nearly 250 new prisoners from police stations. Mandera Prison, where 250 pardons were granted, received around 200 new prisoners, including 129 from Hargeisa Prison, and police stations in Hargeisa and districts in Sahil region. Most are juveniles. At Borama Prison only 15 pardons were granted and they received 50 new prisoners, including 20 remandees. The prison in Gabiley received 15 new prisoners, including three women from Daloodo Police Station in Hargeisa. These women have completed their sentences but remain in detention because of their inability to pay civil compensation of over \$25,000.

The situation is similar in all prisons in Somaliland. The people who were released under the pardon were just replaced by people serving convictions at police stations. Or by newly arrested people held pre-trial. Burao Prison has received 12 new pre-trial cases since 1 April. Despite the hard work and commitment of prison officials to ensure all qualified and deserving prisoners were included in the request for pardon, they are still facing the same dangerous situation. The prisons are no less crowded, and no less

susceptible to COVID-19, than before. It will be the prisoners and prison staff who suffer if urgent action is not taken.

Even though hundreds of convicted prisoners held in police stations have now been sent to prisons, new people continue to be arrested and are being held in police stations. Since the pardon on 1 April, we have received a number of new cases from police stations in Hargeisa in need of legal assistance. For example, we are assisting six youths held at Koodbuur Station accused of fighting in public that the police arrested on 4 April. At Macalin Harun Police Station, our team is working on a case of five youths aged 16 to 18 years arrested and also accused of fighting in public on 6 and 7 April. Undoubtedly some arrests will need to be made during the coronavirus pandemic. But guidance should be given to officers to limit arrests, especially of juveniles and other groups who require special attention. This is especially urgent given that during Ramadan many judicial staff usually take leave and this results in slower processing of cases. This could mean detainees will languish in police stations awaiting trial until June. This is too risky in the face of COVID-19.

COVID-19 is no longer an abstract threat happening “elsewhere to other people.” It is in Somaliland. This is not the time to be tough on crime. It is time to be tough on COVID-19. It is the time to show compassion and take decisive action to reduce the detained population at both prisons and police stations.

We call on President Bihi to issue a second pardon and ask that this pardon include convicted prisoners at both prisons and police stations. Convicted prisoners who have not committed serious offences should be included whether or not they have served half of their sentence. All persons being held because of civil liabilities less than \$10,000 should be included whether or not they have served their full sentence. Those who are especially vulnerable – imprisoned children, the elderly, women, those who suffer from mental ill-health and prisoners who are already physically sick – should be considered a priority. And the guidelines for arrest need to be reviewed so that new detainees are not simply taking the place of those who are released. *Horizon* also recommends that the staff of prisons, and the Custodial Corps, should be more closely consulted on the final lists submitted by the Attorney-General to the President.

What Somaliland does now will shape what lies ahead. *Horizon Institute* commends President Bihi for the action taken to date and we call on him to continue his efforts to protect the most exposed among us – prisoners and detainees – from the coronavirus.

Horizon Institute is doing what we can to help depopulate police station and prisons. We have opened free legal assistance hotlines (063 6282434/ 063 6282435/ 063 6282436/ 063 6282437/ 063 6282438/ 063 6282439) to assist people who have relatives in detention.

Horizon Institute is working to advance the rule of law and human rights. For inquires, we can be contacted at info@thehorizoninstitute.org. To learn more, visit us at www.thehorizoninstitute.org and follow us on Twitter and Facebook.