



THE PRESIDENCY

## **THE POWER OF MERCY ADVISORY COMMITTEE (POMAC)**



ANNUAL REPORT AND FINANCIAL STATEMENTS  
**FINANCIAL YEAR 2019/2020**

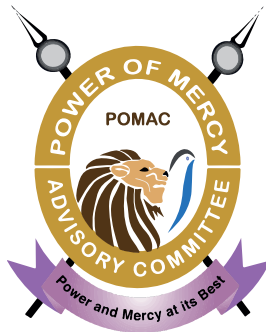




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# THE POWER OF MERCY ADVISORY COMMITTEE (POMAC)

## **MOTTO**

Power and mercy at its best

## **VISION**

Excellence in rendering advice on the Power of Mercy

## **MISSION**

To receive and consider petitions by convicted criminal offenders, research and collaborate with other relevant organs and expeditiously render independent advice to the President on the exercise of Power of Mercy.

## **CORE VALUES**

Integrity  
Transparency  
Accountability  
Professionalism  
Social Justice  
Teamwork

## TABLE OF CONTENTS

Chairperson's Statement .....	7
Secretary's Statement .....	11
Introduction .....	15
Petition Hearings and Interviews .....	21
Pardoned Convict Post-Release Monitoring Programme .....	27
Stakeholder Partnerships and Collaborations .....	37
Prison Visits, Education and Sensitisation.....	52
Research .....	67
Secretary's Appointment.....	72
Financial Statements .....	75





## CHAIRPERSON'S STATEMENT

I have the pleasure to present the Power of Mercy Advisory Committee's Annual Report and Financial Statements for the financial year 2019/2020, in accordance with Section 29 of the Power of Mercy Act, 2011. This is the Committee's Seventh Annual Report and the second publication since I joined the Committee as Chair following my appointment to the Office of the Honourable the Attorney General of the Republic of Kenya on 28th March 2018.

The Power of Mercy Advisory Committee is mandated to advise His Excellency the President of the Republic of Kenya in his constitutional exercise of the power of mercy. Article 133 of the Constitution of Kenya, in particular, provides that on the petition of any person, the President may exercise the power in accordance with the advice of the Committee by granting a free or conditional pardon; postponing the carrying out of a punishment for a specified or indefinite period; substituting a less severe form of punishment; or remitting all or part of a punishment.

While processing petitions remains the cornerstone of the Committee's role, Section 14 of the Power of Mercy Act mandates the Committee to, inter alia, undertake or commission research on matters relating to the power of mercy; educate persons in correctional services on the power of mercy and procedures relating to the application of its exercise; carry out necessary investigations for purposes of determining a petition for the power of mercy; and, in partnership with non-state actors, educate the public on the nature and implications of the power of mercy.

This report is prepared against the backdrop of the disruptions that were occasioned by the COVID-19 pandemic which was first reported in Kenya in March 2020. Some of the disruptions include the restriction of movement in correctional facilities, which affected the operations of the Committee in far reaching ways. The pandemic also exposed the vulnerability of the old traditional models of information gathering and compelled the Committee to be proactive in devising more effective processes.

Paradoxically, while most of the attention is on the negative effects of COVID-19, the pandemic has unveiled the immense opportunities available to organizations that have leveraged on modern technology and digitized their operations. Particularly, one of the benefits to the petition process includes the enhanced reach of the Committee's services to all the prisons through virtual petitions, interviews and

prison outreach programs. I would therefore urge the Committee to judiciously adopt a proactive approach to the new normal and be ready to adjust its strategies to expeditiously meet the current and future needs of the petitioners. Given the many competing government priorities, and the resultant cost of containing COVID-19, austerity measures with far-reaching implications on budgetary allocation have been introduced. It is imperative for the Committee, in order to be responsive to the needs of petitioners, to reengineer its processes and devise measures that will ensure optimal utilization of the available resources.

Importantly, this report reveals a significant drop in the number of petitions from 547 in the period 2018/2019 to 206 in the period 2019/2020. During the period under review, the Committee only held 68 petition hearings and interviewed 3 long-term convicts as compared to 458 and 603 respectively in the previous two combined periods of 2017/2018 and 2018/2019. This comes against a backdrop of a total of 25,977 convicted offenders and 17, 624 pre-trial remandees as at the 30th June, 2020.

The Committee is prohibited by, law, in particular Sections 19 (1) (a) and (b) of the Power of Mercy Act, from processing a petition where the person in whose benefit it is made, is on probation or serving a suspended sentence; or an application for any judicial remedy is pending before a court. A significant number of long-serving convicts, who are, by design the target of the Power of Mercy chose the court as the redress route thereby locking themselves out of the process of pardon.

There is an emerging need for a concerted effort by the actors in the criminal justice system and particularly the Judiciary, the Prisons Service and the Department of Probation and Aftercare, to review and align to Article 133 of the Constitution the related statutes which existed prior to its enactment. In the Financial Year 2020/2021, it would be important for the Committee to commence with the relevant amendments to the Legal Framework of Power of Mercy Act in order to thereby give full effect to the implementation of Article 133.

Moving forward, I wish to underscore the importance of completing the review of the previous strategic plan 2015-2018 and the implementation of the Strategic Plan developed for period 2019-2023. This has become crucial because it will provide a roadmap for the Committee. The Strategic Plan will not only chart the strategic direction, but also identify strategies and activities that will guide the Committee in the furtherance of its mandate. Further recognizing that an ethical culture is



the foundation of any successful organization, it is imperative for the Committee to continue to institutionalize strong value systems of Integrity, Transparency, Accountability, Professionalism, Social Justice and Teamwork.

On behalf of the Committee, I thank the Office of the President, all actors in the criminal justice system and all our partners for their support. I urge all our stakeholders to walk with us on this journey as we look forward to greater success in our joint endeavour to fulfill the Committee's mandate.

**P. Kihara Kariuki,**

Attorney General and Chairperson

## SECRETARY'S STATEMENT



I am honored by the opportunity to join the Committee since my appointment as Acting Secretary/CEO on 16th December, 2019, a position that was hitherto held by Mr. Michael Kagika who has since been deployed to The National Treasury. I want to thank the Committee and the outgoing CEO for enabling a smooth transition. Going forward, I commit to work closely with the Committee to consolidate and build on this strong foundation. We shall endeavor to renew our focus on deepening stakeholder partnerships and collaborations, which in turn will result into positive outcomes on the petition process. It is my strong conviction that the Committee's unwavering commitment and dedication will provide a conducive regulatory and policy environment for the petition process to thrive.

The Power of Mercy Advisory Committee is mandated to advise the President in his constitutional exercise of the Power of Mercy. Further, the Committee is enabled by the Power of Mercy Act of 2011 to, among others, undertake research and educate persons in correctional services on the power of mercy and procedures related to application for its exercise. The Committee in collaboration with the National Crime Research Center is currently conducting research in the areas of Recidivism and Risk Management and Best Practice in the criminal jurisprudence. Focus will now shift to heightening the monitoring of the already pardoned 196 convicts to check on the risk of relapse. We are also exploring means and ways of how, moving forward, the Committee can go beyond monitoring and help the pardonees to settle into some income-generating activities especially as relates to their acquired vocational skills.

Further, to crystallize the efficacy of its functions and to realign them with the emerging needs and trends, the Committee has revised its strategic plan 2015-18. Thus, the Strategic Plan 2019 – 2023 is informed by various considerations including the need to digitize its operations; revamp the prison outreach program; mobilize external resources and strengthen both internal and external capacities. The Committee recognizes the role of the various actors in complementing its pardon efforts. As espoused in the revised Strategic Plan, strong partnerships and collaboration with organizations in the criminal justice system will not only provide the best possible outcomes for the current and future petitioners, but will also strengthen and enhance the implementation of the petition and pardon processes.

In order for the Committee to effectively execute its mandate, it will depend on robust processes. This will enable it to build long-term competencies and judiciously devote its attention on tasks that are unique and strategic. During the period under review, the Committee strengthened collaboration with key stakeholders involved in the criminal justice system. As a result, representatives of the Cabinet Secretary in charge of Correctional Services, the Directorate of Criminal Investigations and the Kenya Prisons Service were co-opted. This is in line with Section 15 (d) of the Power of Mercy Act that mandates the Committee to co-opt persons whose knowledge and expertise it requires.

The recent gazettelement of Pardon Officers will continue to provide a critical link between the Committee, the prisons and the petitioners. This is in recognition of the fact that despite the respective mandates of the various actors, the successful implementation of the petition process will, to a large extent, depend on the commitment of the Pardon Officers. Going forward, the Committee intends to build on the progress made so far and renew its focus on deepening the integrity threshold of the petition process. In line with this, the Committee's top priority will be to review the petition process in order to ensure that the convicted offenders who are recommended do indeed deserve pardon.

The rapid advancements in technology are affecting operations and it is fascinating to note that the Committee is responding to the challenges and opportunities that are offered by these ongoing developments. In order to enhance the effective and efficient utilization of the available resources, the Committee will specifically devote more resources to automate its operations. The Petition Management Information System, which is almost ready and is undergoing test runs will be fully operationalized in the ensuing Financial Year.

Closely tied to this is the need for County-specific interventions. The pardoned convicted criminal offenders are endowed with high vocational skills acquired through correctional facilities' rehabilitation programs. While the success of the clemency is highly dependent on reintegration, the same in turn depends on opportunities available to them to employ the vocational skills that would lead to acceptance, both by the family and the community. Moving forward, the Committee will escalate its engagement through collaboration and networking, capacity building, benchmarking and sharing experiences and ideas in areas of common interest with the other actors in the criminal justice system.

The Committee plans to sensitize county leadership, local administration, opinion leaders and the society at large on the significance of according pardonees a second chance, more so, opportunities to participate in meaningful socio-economic activities to cushion themselves and in the process contribute to the welfare of the society and national development. The Kitui and Murang'a County Governments, for instance, are doing a laudable job on this front.

These milestones could not have been achieved had it not been for the active and unwavering support of the Attorney General who is also the Chair of the Committee and whose guidance on policy and law has always come in handy; the Cabinet Office whose facilitative role we've always relied on; the National Government Administrative Officers; the Prisons Department; all actors in the criminal justice system and the many state and non-state actors that have walked along with us in this journey.

I want to thank Committee members and the Secretariat for their commitment to the purpose. I shall endeavor to fully support the Committee to realizing its constitutional mandate.



**Dr. Lydia Muriuki, OGW**

Ag. Secretary

## COMMITTEE MEMBERS

Hon. P. Kihara Kariuki, EGH	- Chairperson
Dr. Janet Kirui	- Vice Chairperson
Dr. Fred Matiang'i, EGH	- Member
Mr. Jerim Oloo, OGW	- Member
Dr. Scholastic Adeli	- Member
Mr. David Macharia, MBS	- Member
Mr. Richard Mativu	- Member
Dr. Joan Nyanyuki	- Member
Mr. Abdi Hassan, OGW	- Member
Dr. Lydia Muriuki, OGW	- Secretary



P. Kihara Kariuki  
CHAIRPERSON



Dr. Janet Kirui  
VICE CHAIRPERSON



Dr. Fred Matiang'i, EGH  
MEMBER



Mr. Jerim Oloo, OGW  
MEMBER



Dr. Scholastic Adeli  
MEMBER



Mr. David Macharia, MBS  
MEMBER



Mr. Richard Mativu  
MEMBER



Dr. Joan Nyanyuki  
MEMBER



Mr. Abdi Hassan, OGW  
MEMBER



Dr. Lydia Muriuki, OGW  
Ag. SECRETARY

## INTRODUCTION

### **Mandate of the Power of Mercy Advisory Committee**

Article 133 of the Constitution of Kenya, 2010 provides for the Power of Mercy and establishes the Power of Mercy Advisory Committee (POMAC) whose primary mandate is to advise the President on the exercise of this Power. The Power of Mercy Act No. 21 of 2011 makes further provision with respect to the Power of Mercy by providing for the appointment, tenure of office of the members, the powers and functions of the Power of Mercy Advisory Committee and connected purposes.

The Committee ensures that the process of exercising the power of mercy is transparent, free from bias, just and used for public good. The Committee studies the critical issues surrounding a petition, carries independent research, hears both the beneficiary of the petition and where necessary the testimony of others, reviews reports and recommendations from relevant agencies - all of which ensure the Committee formulates and forwards to the President well developed, thoughtful recommendations on all petitions for the exercise of mercy made by convicted criminal offenders or their representatives. The Committee's role therefore guarantees that the pardon system is predictable and procedural. The establishment of the Committee was part of the criminal justice system reforms.

The principle of anchoring the power of mercy in the Constitution removes the veil of mystery surrounding clemency and enlarges public participation while ensuring only deserving persons are granted pardon. This further guarantees public confidence in the petition system, safeguards state and public security and provides an environment that is conducive for the resettlement and reintegration of pardoned convicts.

### **Powers of the Committee**

In the performance of its functions and in the exercise of its powers, the Committee:

- a) May, subject to the Power of Mercy Act, 2011, determine its procedure;
- b) Shall, where appropriate, receive written or oral statements;
- c) May establish sub-committees;
- d) May co-opt into its sub-committees persons whose knowledge and expertise it requires;

- e) Is not bound by the strict rules of evidence; and
- f) Shall conduct interviews of individuals on whose behalf the petition is made.

### **Functions of the Committee**

In addition to the Committee's functions to advise His Excellency the President on the exercise of Power of Mercy and taking into account the views of the victims of the offence in respect to which it is considering making recommendations to the President, the Committee shall:

- a) Undertake or commission research and collect data on matters relating to the Power of Mercy;
- b) Work with State organs responsible for correctional services to educate persons in correctional services on the power of mercy and procedures relating to applications for its exercise;
- c) Carry out any necessary investigations required to make a determination on a petition for Power of Mercy;
- d) Partner with State and non-state actors to educate the public on the nature and implications of the Power of Mercy;
- e) Undertake such other activity as may be necessary for the discharge of its functions and exercise of its powers; and,
- f) Carry out any other function as may be conferred on it under any other written law.

### **Composition of the Committee**

The membership of the Advisory Committee on the Power of Mercy comprises of:-

- a) The Honorable Attorney General, who is the Chairperson.
- b) The Cabinet Secretary responsible for Correctional Services.
- c) Seven (7) other members who are not State officers or in public service appointed by the President. The Vice Chairperson is elected by the Committee members.

### **Committee Secretary**

The Secretary to the Committee is a public officer nominated by the Public Service Commission through a competitive process and appointed by the President. The Office of the President provides secretariat services to the Committee.

### **Pardon Officers**

Pardon Officers, who report directly to the Committee on all matters related to the power of mercy, are public officers seconded to the Committee and stationed at all



the correctional facilities in the country to perform the following functions:

- a) Advise the internal mechanism in each correctional facility on all matters related to the exercise of the power of mercy.
- b) Assist the applicants in the preparation of petitions and providing general information on the power of mercy to persons in correctional facilities.

### **Eligibility to file a petition for exercise of mercy**

On the petition of any person, the President may exercise a power of mercy in accordance with the advice of the Advisory Committee by:

- a) Granting a free or conditional pardon to a person convicted of an offence
- b) Postponing the carrying out of a punishment, either for a specified or indefinite period
- c) Substituting a less severe form of punishment, or
- d) Remitting all or part of punishment.

A petition shall not be permitted where the person for whose benefit it is made, is on probation or serving a suspended sentence or whose application for any judicial remedy is pending before a court.

### **Pardon Process**

#### **Commencing a Petition**

An application for the exercise of the power of mercy shall be by a petition in the prescribed form and should meet the guidelines and criteria prescribed in the form. However, a petition that provides the requisite information shall not be incompetent only for the reason that it does not accord strictly with the prescribed format or that it has been commenced in person or through a representative other than an advocate.

#### **Consideration of petitions and notification of victims**

Upon receipt of the petition for the exercise of the power of mercy, the Committee determines the admissibility of the petition.

The Committee has all the necessary powers to determine the petition including calling for evidence, where appropriate conducting interviews, investigations and

receiving and reviewing necessary reports from appropriate government agencies and/or officials before making relevant recommendations to His Excellency the President.

The Committee may also consider whether the convicted criminal offender has served at least one – third of the sentence pronounced by a court in misdemeanors and where a person is convicted and sentenced to imprisonment for life or to death and their sentence has not been effected, has served for at least five (5) years.

Where the relief sought relates to a conviction for a felony in which there was a victim and the Committee determines that there's need to contact the victim, reasonable efforts are made to notify the victim. The victim notified shall be entitled to make representations to the Committee.

### **Criteria applied by the Committee**

When making a recommendation under Article 133 of the Constitution and Section 21(1) (c) of the Power of Mercy Act, the Committee considers the following:

- a) The age of the convicted criminal offender at the time of commission of the offence.
- b) The circumstances surrounding the commission of the offence.
- c) Whether the person for whose benefit the petition is made is a first offender.
- d) The nature and seriousness of the offence.
- e) The length of period so far served by the convicted criminal offender in prison after conviction.
- f) The length of period served by the convicted criminal prisoner in remand.
- g) The personal circumstances of the offender at the time of making the petition including the mental, physical health and any disabilities.
- h) The interest of the State and community.
- i) The post-conviction conduct, character and reputation of the convicted criminal prisoner.
- j) The official recommendations and reports from the State organ or department responsible for correctional services.
- k) Where the petitioner has opted to pursue other available remedies the outcome of such avenue.
- l) The representation of the victim where applicable.
- m) The Committee may also consider reports from fellow inmates or reports from probation services.





## PETITION HEARINGS AND INTERVIEWS

The core function of the Committee is to receive, examine, review and make recommendations on all petitions for Power of Mercy including interviewing the petitioners and where necessary, taking into account the views of the victims in the respective petition matters.

During the Financial Year (FY), the Committee received a total of 206 petitions from convicted offenders across correctional facilities in the Country. During the same period, the Committee held 68 petition hearings at its offices, Kencom House, interviewed 3 long term serving convicts; two (2) at the Mathari National Teaching and Referral Hospital and one (1) at the Malindi Women Prison and made the necessary recommendations.

Below is a summary of the petitions received, grouped according to:

- a) The correctional facility where a petitioner is held
- b) The nature of the offence committed; and,
- c) The nature of the sentence the petitioner is serving.

**Table 1: Number of petitions received according to where the convicted offender (petitioner) is held**

S/NO	PRISON	TOTAL
CENTRAL REGION		
1.	Thompson Falls Women Prison	2
NAIROBI REGION		
2.	Kamiti Maximum Security Prison	32
3.	Lang'ata Women Maximum Security Prison	7
4.	Mathari National Teaching & Referral Hospital	2
5.	Nairobi West Prison	2
EASTERN REGION		
6.	Embu Main Prison	11

7.	Mwingi Main Prison	1
8.	Meru Main Prison	1
9.	Uruku Prison	20
WESTERN REGION		
10.	Kakamega Main Prison	1
11.	Kitale Main Prison	10
12.	Busia Main Prison	1
13.	Busia Women Prison	2
RIFT VALLEY REGION		
14.	Eldoret Main Prison	6
15.	Ngeria Farm Prison	37
16.	Naivasha Maximum Security Prison	9
17.	Naivasha Medium Prison	6
18.	Nakuru Main Prison	1
NORTH EASTERN REGION		
19.	Garissa Main Prison	1
20.	Lodwar Main Prison	20
NYANZA REGION		
21.	Kibos Maximum Security Prison	7
22.	Kisumu Maximum Security Prison	1
23.	Kisumu Women Prison	1
24.	Migori Main Prison	1
COAST REGION		
25.	Hindi Prison	7
26.	Manyani Maximum Security Prison	2
27.	Shimo La-Tewa Maximum Security Prison	15
<b>GRAND TOTAL</b>		<b>206</b>

**Table 2: Number of petitions categorized by offence committed**

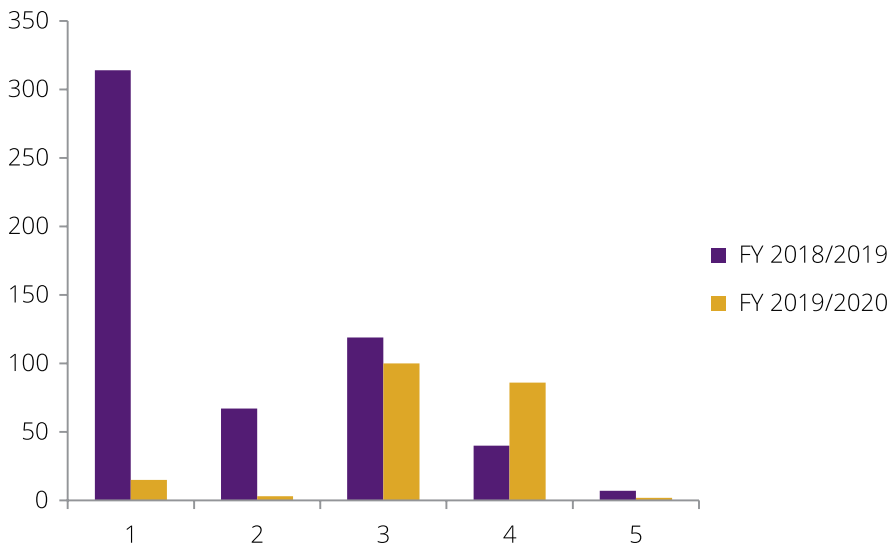
S/NO	OFFENCE	No. of Petitioners
1.	Murder	63
2.	Sexual Offences	60
3.	Robbery with Violence	23
4.	Manslaughter	14
5.	Grievous Harm	8
6.	Offence not indicated in the petition form	6
7.	Assault	5
8.	House breaking & Stealing	3
9.	Threatening to kill and breach of peace	3
10.	Stealing a motorcycle	3
11.	Burglary and stealing	2
12.	Shop breaking	2
13.	Stealing	2
14.	Arson	1
15.	Attempted Murder	1
16.	Being in possession of ammunitions	1
17.	Breaking into a building and committing a felony	1
18.	Child trafficking and neglect	1
19.	Conveying suspected stolen property	1
20.	Cutting down crops of cultivated produce	1
21.	Imprudent acquisition of public property and forgery	1
22.	Infanticide	1
23.	Malicious Damage to property	1
24.	Preparation to commit a felony	1
25.	Possession & Trafficking of Narcotics Drugs	1
<b>TOTAL</b>		<b>206</b>

Following the Supreme Court of Kenya ruling in petition No. 15 of 2015; Francis Karioko Muruatetu & Another and the Republic, which ordered inter alia, for all cases where the mandatory sentence had been imposed to be re-heard on sentencing, a significant number of long serving convicts sought legal redress through resentencing. This locked them out of the pardon process; The Power of Mercy Act Section 19 (1) (2) (b) states that a petition shall not be permitted where the person for whose benefit it is made is on probation, or serving a suspended service or whose application for any judicial remedy is pending before a court.

The decline in the number of petitioners in the FY 2018/2019 from that of FY 2019/2020 is as illustrated in table 3 below.

**Table 3: Number of petitions categorized by the sentence the convicted offender (petitioner) is serving in the fiscal years 2018/2019, 2019/2020**

S/NO.	SENTENCE	FY 2018/2019	FY 2019/2020
1.	Death	314	15
2.	Life	67	3
3.	Determinate	119	100
4.	President's Pleasure	40	86
5.	Not indicated in the petition form	7	2
<b>Total</b>		<b>547</b>	<b>206</b>





**Pictorial representation of the petition hearings conducted by the Committee at its Kencom House offices during the period under review**





## PARDONED CONVICT POST RELEASE MONITORING PROGRAMME

The Committee routinely monitors pardoned ex-offenders, in collaboration with other agencies, to assess how they have resettled and their acceptance into society. The Committee's programme involves receiving routine progress reports on released convicts from Government agencies involved in post release supervision and after care.

In particular, the Committee visits the released convicts and interacts with the Communities around them so as to assess how the convicts are adjusting. In addition, during the Committee visits to Correctional Facilities, the pardonees accompany them.

In the year under review, the Committee supported and interacted with six (6) ex-offenders released under the Power of Mercy. The six are as tabulated below:

**Table 7: Pardonees and the dates they were visited by the Committee**

S/NO.	PARDONEE	COUNTY OF ORIGIN	DATE OF VISIT BY THE COMMITTEE
1.	Mwangi Wambura	Murang'a	14/8/2019
2.	John Njuki	Laikipia	15/8/2019
3.	Francis Binami	Laikipia	15/8/2019
4.	Teresia Wanjiku	Laikipia	15/8/2019
5.	Bora Karisa	Kilifi	24/10/2019
6.	William Karisa	Kilifi	24/10/2019

To the best of the Committee's Knowledge, majority of the persons pardoned by the President are law abiding citizens who have been of good post release behavior and have not gotten into any conflict with the law. However, they face several challenges post-conviction:

- Many ex-offenders face rejection from their families and community. After prison, their family members and people from the community reject and ostracise them, which makes it difficult for them to readjust to life post conviction;

- Additionally, once the pardonees return home, they are dependent on family members. Consequently, they struggle to overcome years of limited contact, potential resentment, and a change in the household dynamics. Family members often, hesitantly, assume a new financial and emotional burden when ex-offenders return home;
- Upon release, it is difficult for them to find gainful employment, despite having exited prison highly skilled. Many prisoners have limited education and work experience, which makes it difficult for them to secure employment after they are released. A history of criminal conviction and serving a sentence has a negative impact on their employment prospects too;
- Prisoners who maintain consistent contact and connection with their families during their sentences have a lower recidivism rate than those who do not. There are, however, several obstacles which hinder this connection and prison visits. These include: Insufficient information about visiting procedures, proximity of prison facilities, difficulty scheduling visits, and visiting procedures which are deemed to be either very humiliating or uncomfortable. In addition, the visiting areas in prison are inhospitable for children;
- When ex-offenders are released from prison, they tend to find that their expectations for returning to normal life are not always realistic. This is especially true for prisoners who serve lengthy terms because they are likely to face advances in technologies that are essential in new job markets and lack training that makes them viable candidates;
- Another common challenge experienced by the pardoned ex-offenders is the feeling of inferiority. Majority noted that being in prison for a lengthy period contributed to stagnation in one's life; by the time many of them came out of prison, they had lost out on key progress opportunities compared to their peers. This, they said, leads to a lot of stress and regret, which are difficult to deal with;
- Adjusting to a changed environment was a daunting challenge. They noted that prison environment is characterised by routine and its own culture. As such, one gets used to the prison routines and ways of life and after many years, readjusting to normal life outside the confines of jail becomes a challenge.

In order to mitigate the aforementioned challenges, the Committee has partnered with key stakeholders to eliminate some of the obstacles hindering the successful reintegration of ex-convicts back into society. Some of these initiatives include:

- Educating families on the importance of frequent visits, while they are in prison, in order to prevent a strain on the immediate family structure;
- Escalating matters arising from land succession and property inheritance to the Provincial Administration;
- In liaison with the Provincial Administration, conducting sensitization forums on the acceptance of pardoned ex-offenders back into the community;
- Partnering with county governments for the absorption of pardoned ex-offenders into small scale jobs;
- In collaboration with the Probation & AfterCare Services Department, provided them with seed capital and start up equipment for those who set out on self-employment;
- Partnering with National Government Administrative Officers to ensure Persons released under the President's Pleasure (mental category) access medication and counselling services in public hospitals, in order to prevent relapse.
- The Committee is also exploring avenues through which it can partner with other stakeholders to extend counselling services to ex-convicts.

## MWANGI WAMBURA

Mwangi Wambura was convicted in 1988 for the offence of Robbery With Violence. Then, he was in a gang of criminals who attacked and robbed a bank along Muindi Mbingu street, Nairobi. While the rest of the gang members managed to escape after the robbery, Wambura was arrested soon after committing the offence and arraigned in court. He was consequently sentenced to death, a conviction which was later commuted to Life Imprisonment. In June 2014, he was pardoned by the President upon advice by the Committee, after having served twenty six (26) years in prison. Wambura was amongst the 47 long-term serving convicts pardoned. He was released from prison at the age of 57 Years.

While in prison, Wambura had converted into Christianity and become an evangelist. Upon release, the Committee and the County Government of Murang'a assisted him to settle down post-conviction; they provided him with a public address system, to aid in his evangelization, and farm inputs. Accordingly, Wambura currently evangelizes in Murang'a town and is also a budding small-scale farmer. The aforementioned post-conviction support notwithstanding, Wambura encountered some challenges in settling down including:

- Owing to the long period he was imprisoned, Wambura was disinherited of the family land by siblings. However, the local administration has since facilitated restoration of his land ownership;
- His house was demolished by neighbours following his arrest and subsequent imprisonment but, he has managed to construct a small 2 roomed house;
- His efforts to obtain a loan, to improve on his farming, have not been successful as he has been stigmatized by the ex-convict label;
- Some family members and neighbours occasionally taunt and provoke him. They do this, he informed the Committee, so that he can retaliate and be sent back to prison again.

On 14th August 2019, the Committee interacted with Wambura, during a visit to the Murang'a Main Prison. Wambura used the forum to urge prisoners to acquire skills in prison which would help them eke out a living upon pardon/release. The following photos are of the aforementioned prison visit.



*“Shun crime and be of good conduct while serving your sentences”, Wambura urges inmates during the Committee visit to Murang’a Prison on 14/8/2019*



## Photos of the pardonees interacting with the Committee during the prison visits



*Pardonees John Njuki (above) and Teresia Wanjiku (below) addressed inmates and engaged with the Committee during the Thompson Falls Prison visit on 15/08/2019*







*From left: Committee members Dr. Scholastic Adeli, Mr. Jerim Oloo and the then Committee Secretary Mr. Michael Kagika (extreme right) interact with the pardonees*



*From left to right: Pardonees Francis Binami and John Njuki in a discussion with Mr. Michael Kagika*



*Pardonee Teresia Wanjiku (2nd left) with secretariat staff during the Committee visit to Thompson Falls Prison on 15/08/2019*



*William Karisa (above) and Bora Karisa (below) during the Committee visit to Kilifi Prison on 24/10/2019*





## STAKEHOLDER PARTNERSHIPS AND COLLABORATION

The Power of Mercy Advisory Committee actively collaborates with key stakeholders to enhance knowledge sharing, dissemination of information on the nature and implications of the Power of Mercy and, to improve service delivery.

Some of the key stakeholders who worked closely with the Committee include: Office of the President, Prisons Department, State Law Office, Judiciary and, the National Community Service Orders Committee. Others were the Probation and AfterCare Service Department, Provincial Administration, County Governments and Media.

During the year under review, the Committee worked closely with the Prisons Department. The Commissioner General of Prisons facilitated all the prison visits by the Committee for educating inmates on the Power of Mercy and also availed inmates hearings and petition interviews.

The Prisons Department also hosts the pardon officers who are public officers seconded to the Committee and are stationed at correctional facilities with a mandate to advise the internal mechanism in each correctional facility on all matters relating to the power of mercy. They are also responsible for assisting the applicant in the preparation of petitions and providing general information on the power of mercy to the prisoners.

### **Pardon Officers Consultative Seminar**

In cognizance of the critical role played by Pardon Officers in the pardon process, a 2-day Pardon Officers Consultative Seminar was held at the Prison Officers Training College, Ruiru. The Forum, which took place on the 9th and 10th September 2019, drew participants from the nine (9) maximum security facilities in the country; these are facilities that hold prisoners sentenced from 10 years to life imprisonment and death row inmates, who form the majority of petitioners for the Power of Mercy.

The serving pardon officers, in the year under review, were appointed vide Gazette Notice No.5056 dated April 20, 2012. A refresher notice was thus deemed fit in order to enhance the officers' knowledge and skills and, to appraise them on new developments related to the pardon process.

The objectives of the Pardon Officers Consultative Seminar were:

- i. To provide a comprehensive understanding of the functions and roles of a pardon officer;
- ii. To adopt a secondary prison based petition register, populated with relevant information for ease of liaison between the Committee and the prisons;
- iii. To ensure comprehensive petitioner profiling, credible and reliable reports from the respective prisons.
- iv. To promote positive relations between the pardon officers and the committee.
- v. To update each other on emerging and topical issues.

From the deliberations between the Committee and the Pardon Officers, the following was agreed upon as the way forward for immediate implementation by the various actors in the petition process:

- Pardon Officers shall continuously update the Committee on emerging issues regarding the petitioners;
- The Committee will conduct regular trainings for pardon officers;
- Pardon Officers shall sensitize inmates and other prison staff about the petition process so that all players can better understand and appreciate the process;
- Pardon Officers will maintain a petitions' sub register in every prison for ease of documenting petitioners' information and records;
- In addition to the requisite petition form, the Officers shall be availing supplementary documentation for petition consideration by the Committee. The documents identified were: prison report, judicial records (if available), referral for probation officers report, medical reports, copies of certificates of treatment and rehabilitation programs, and a summary of the petition.

Upon successful conclusion of the 2-day consultative seminar, the Pardon Officers were awarded certificates of attendance.

## Programme - Pardon Officers Consultative Seminar

<b>PARDON OFFICERS CONSULTATIVE SEMINAR</b> <b>PRISONS STAFF TRAINING COLLEGE, RUIRU</b> <b>9<sup>TH</sup> AND 10<sup>TH</sup> SEPTEMBER, 2019</b>							
DAY/DATE	8.30 A.M - 9.00 A.M.	9.00 A.M. – 10.00 A.M.	10.30 A.M. – 11.30 A.M.	11.30 A.M. - 1.00 P.M.	2.00 P.M. – 4.00 P.M.		
<b>Monday</b>  9 <sup>th</sup> September, <b>2019</b>	Registration  Introduction/ Climate Setting  Official Opening	Historical Background of Power of Mercy	10.00 a.m. – 10.30 a.m.  TEA BREAK	The Legal Framework of the Power of Mercy	Key Stages of the Petition Process	1.00 p.m. – 2.00 p.m.  LUNCH BREAK	Duties and Roles of the Pardon Officer  Petitions Profiling – Forms and Reports  TEA BREAK 4.00 p.m. – 4.30 p.m.
<b>Tuesday</b>  10 <sup>th</sup> September, <b>2019</b>	Re-capitulation of day 1	Code of Conduct for Pardon Officers	TEA BREAK	Plenary	Way Forward and Closing Remarks	LUNCH BREAK	<b>DEPARTURE</b>

### SEMINAR PROGRAMME

	TOPIC	DISCUSSANT	MODERATOR
1.	Introduction/Climate Setting	Mr. Michael Kagika/Mercy Ochieng	Mr. Michael Kagika/ Mercy Ochieng
2.	Official Opening	Dr. Janet Kirui/Mrs. Wairimu Thang'ate	Dr. Janet Kirui/ Mrs. Wairimu Thang'ate
3.	Historical Background of Power of Mercy	Dr. Joan Nyanyuki/Mr. Michael Kagika	Dr. Joan Nyanyuki/Mr. Michael Kagika
4.	The Legal Framework of the Power of Mercy	Mr. Hassan Abdi/Mr. Tom Odede	Mr. Hassan Abdi/Mr. Tom Odede
5.	Key Stages of the Petition Process	Dr. Scholastic Adeli/Merceline Macharia	Dr. Scholastic Adeli/Merceline Macharia
6.	Duties and Roles of the Pardon Officer	Mr. David Macharia/Sunday Namisi	Mr. David Macharia/Sunday Namisi
7.	Petition Profiling - Forms and Reports	Mr. Jerim Oloo/Aja Imagoro	Mr. Jerim Oloo/Aja Imagoro
8.	Re-capitulation of Day 1	Ken Rogers Kyallo/Clifford Kipoto	Ken Rogers Kyallo/Clifford Kipoto
9.	Code of Conduct for Pardon Officers	Mr. Richard Mativu/Ms. Catherine Njoroge	Mr. Richard Mativu/Ms. Catherine Njoroge
10.	Plenary	Mr. Stephen Gitau	Mr. Stephen Gitau
11.	Way Forward	Dr. Janet Kirui/Mr. Michael Kagika	Dr. Janet Kirui/Mr. Michael Kagika

## COMMITTEE STRATEGIC FORUM



The Advisory Committee on the Power of Mercy, in pursuit of its mandate and functions, organized a strategic stakeholder's forum which was held at the Kiambu Institute of Science & Technology from 29th June to 4th July, 2020. The forum's objective was to review the Committee's mandate, functions and working procedures through a multiagency approach for efficient service delivery.

Topics discussed during the forum were:

1. Role of the National Government Administration in the Pardon Process and monitoring of Pardonees
2. Correctional Services in the rehabilitation of criminal offenders; Role of Probation and Aftercare Service in the pardon process
3. Role of the Community Service Orders in rehabilitation and reintegration of pardoned ex-offenders
4. Implementation of the Power of Mercy Act of 2011; Strengths and gaps in the legislation
5. Collaboration with National Security agencies; Role of DCI/NIS in the pardon process
6. Performance Review / Board evaluation
7. Public Officer Ethics Acts & Code of Conduct for Committee Members
8. Introduction to the Electronic Petition Management System
9. Review of the Committee's Strategic Plan 2019/2023
10. Technology in the management of the Committee Affairs



Arising from deliberations of the stakeholder's forum, the following was agreed upon, as the way forward, for action by the Secretariat:

1. Amendment of the Power of Mercy Act and related legislations (Prisons Act, Mental Health Act and the Criminal Procedure Code) should be fast tracked in order to strengthen the pardon process. A holistic approach would be adopted through involvement of all stake holders in the criminal justice system;
2. Integrity of the pardon process would be enhanced through amendment of the existing pardon instruments, forms and reports, in collaboration with the relevant government agencies;
3. A stakeholder analysis would be carried out with a view to discerning the stakeholder concerns. The Committee shall strengthen collaboration and complement the role of various stake holders in the criminal justice system;
4. The Secretariat in collaboration with ICT Authority and the Open Institute, shall facilitate completion of the development and the implementation of a new POMAC Electronic Petitions Management System during the first quarter of FY 2020/2021;
5. The Committee will partner with the various security agencies within the republic, in vetting petitioners for mercy, as a control measure in the pardon process.
6. Regarding the Committee evaluation, the Secretariat shall liaise with the State Corporations Advisory Committee (SCAC) to customize board evaluation tools to fit POMAC as a Constitutional Committee. Once the evaluation tools are ready, SCAC shall facilitate the evaluation process. Going forward, the Committee evaluation shall be done annually.

### **Probation and AfterCare Service Department**

The Department collaborated with the Committee in the provision of reports on the petitioners who had petitioned the President. The reports contained vital information among others:

- a. The petitioner bio data and original home
- b. Personal background and criminal behavior
- c. Pre-conviction conduct and activities of the petitioner
- d. Circumstances of the offence, victims concerns and community's acceptance
- e. Release, reintegration and resettlement plans

The Probation and AfterCare Service also worked closely with the Committee during the Pardined Convict Post-Release Monitoring Programme.

**The following are photos of the Committee engagement with various key stakeholders during the period under review**

### **Courtesy Call on Justice Luka Kimaru , National Community Service Orders Chairman**



## Courtesy call on the Commissioner General of Prisons, Mr. Wycliffe Ogallo







**Pardon Officers Consultative Seminar at the Kenya Prisons Training College, Ruiru: 9th/10th September 2020**







**Courtesy call on the Director DCI  
Mr. George Kinoti, CBS**



*Dr. Janet Kirui, the Committee Vice Chairperson, is welcomed by Mr. George Kinoti, CBS, Director DCI, to his office, Kiambu Road*



*Courtesy call by Dr. Lydia Muriuki, Committee Secretary, on Mr. Hillary Mutyambai, Inspector General of the National Police Service*



*Mr. Patrick Ndunda, Director of Administration, National Police Service paid a courtesy call on the Committee Secretary, Kencom office. Mr. Ndunda is a co-opted member of the Committee. He represents the DCI.*



## Committee Strategic Forum



*From left to right: Mr. Stephen Gitau, Dr. Janet Kirui, Committee Vice Chairperson, and Mr. Chimwaga Mongo, Secretary, National Administration - Ministry of Coordination & National Government*



*Dr. Janet Kirui (left) and Dr. Lydia Muriuki (right) at the Forum*



*Mrs. Rose Wanjohi (L) Director, HR&D Cabinet Affairs Office compares notes with Dr. Lydia Muriuki*



*Participants follow proceedings during the Committee Strategic Forum*



*Mr. Patrick Ndunda displays a copy of CRO 9 Criminal Record form for criminal offenders at the Forum. He demonstrated the role of DCI/NIS in the Pardon process.*



*Dr. Janet Kirui, Committee Vice Chairperson, presents POMAC items to Mr. Phillip Nyingi. Mr. Nyingi took participants through a review of the Committee's Strategic Plan 2019/2023.*

## PRISON VISITS, EDUCATION AND SENSITISATION

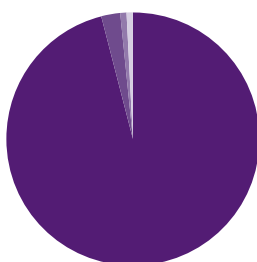
The Power of Mercy Act 2011 in its interpretation of terms takes a correctional facility to mean an institution used to detain persons who are in the lawful custody of the State, whether accused persons awaiting trial or convicted criminal prisoners serving a sentence, and includes a prison established or deemed to have been established under Section 24 of the Prisons Act and a youth corrective training centre established under Section 66 of the Prisons Act.

The POMAC Act further describes a prisoner as any person, whether convicted or not, under detention in any prison.

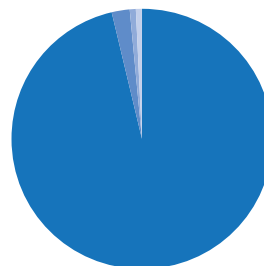
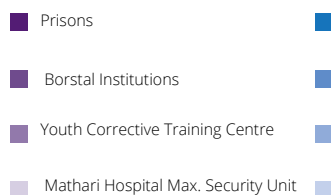
At present, the Correctional Services comprise of the following facilities: One hundred and twenty nine (129) prisons spread countrywide, three (3) borstal institutions, one (1) Youth Corrective Training Centre (YCTC) and the Mathari Hospital Maximum Security Unit. During the year under review, the number of prisons increased by 10, in comparison to the previous fiscal year, as shown in table 4.

**Table 4: Number of Correctional Facilities - financial years 2018/2019, 2019/2020**

S/NO.	CORRECTIONAL SERVICES FACILITIES	FY 2018/2019	FY 2019/2020
1.	Prisons	119	129
2.	Borstal Institutions	3	3
3.	Youth Corrective Training Centre	1	1
4.	Mathari Hospital Max. Security Unit	1	1
	<b>Total</b>	<b>124</b>	<b>134</b>



FY 2018/2019

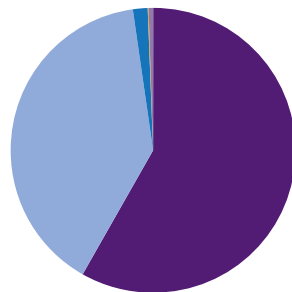


FY 2019/2020

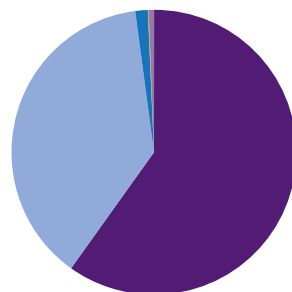
Despite the increase in the number of correctional facilities, the average prison population in the financial year 2019/2020 decreased in comparison to the prison population of the fiscal year 2018/2019, as illustrated in table 5 below.

**Table 5: Average prison population – financial years 2019/2020, 2018/2019 (Source: Kenya Prisons Service Statistics)**

S/NO.	CATEGORY	MALE	FEMALE	FY	FY
				2019/2020 (TOTAL)	2018/2019 (TOTAL)
1.	Convicted Offenders	24,943	1,034	25,977	31,553
2.	Pre-Trial Remandees	16,612	1,012	17,624	20,050
3.	Borstal Institutions	706	38	744	739
4.	YCTC's	45	0	45	53
5.	Children (below 4 years)			228	313
<b>TOTAL</b>				<b>44,618</b>	<b>52,708</b>



FY 2019/2020



FY 2018/2019



## Education on the Power of Mercy

One of the functions of the Advisory Committee is to work with state organs responsible for correctional services to educate persons in prisons on the power of mercy and procedures relating to application for its exercise. During the year under review, the Committee visited twenty (20) prisons to sensitize and educate persons in the correctional facilities on the power of mercy and procedures relating to application for its exercise.

**Table 6: Dates of prison visits in the period under review**

S/NO.	CORRECTIONAL FACILITY	VISIT DATE
1.	Thika Main	13th August, 2019
2.	Thika Women	13th August, 2019
3.	Murang'a Main	14th August, 2019
4.	Murang'a Women	14th August, 2019
5.	Thompson Falls Main	15th August, 2019
6.	Thompson Falls Women	15th August, 2019
7.	Nyandarua Prison	16th August, 2019
8.	Ruiru Prison	11th September, 2019
9.	Kiambu Prison	12th September, 2019
10.	Mathari National Teaching & Referral Hospital	20th September, 2019
11.	Hindi Prison	22nd October, 2019
12.	Malindi Main	23rd October, 2019
13.	Malindi Women	23rd October, 2019
14.	Kilifi Prison	24th October, 2019
15.	Shimo-La-Tewa Women	25th October, 2019
16.	Nanyuki Prison/Nanyuki Women Wing	17th February, 2020
17.	Isiolo Prison/Isiolo Women Wing	18th February, 2020
18.	Kangeta Prison	19th February, 2020
19.	Uruku Prison	20th February, 2020
20.	Mwea Prison	21st February, 2020

Noteworthy, the education and sensitization visits to penal institutions targeted both the staff of correctional facilities and inmates in the prisons. The sessions are interactive. They provide the audiences with opportunity to give feedback and raise issues related to their experiences with the criminal justice system.

Various concerns emerged during the sensitization and plenary sessions:

- Some inmates' appeals have taken inordinately long in courts; in the process, files have also gotten lost in the lower courts rendering them not only unable to proceed with their appeals, but also locking them out of the pardon process.
- Due to long periods of incarceration and the nature of sentences imposed on prisoners (death/life), families have disinherited prisoners, in their absence. This frustrates the successful reintegration of a pardoned ex-offender back into society. Noteworthy, continuous education and sensitization is being conducted by the Committee and its stakeholders to prepare communities for their re-entry into society. Additionally, the establishment of halfway houses would support the process of re-intergration, while providing monitoring and support to ex-convicts.
- The plight of pregnant women and women with children below four years in prison was highlighted. Some correctional facilities, for example Lang'ata and Shimo la Tewa Women Prisons, have established nurseries where mothers spend time with their children, providing a somewhat favourable environment for family formation.
- A high number of remandees and petty offenders at the Correctional Facilities was noted. The huge populations in prison besides causing congestion, also strains the available meagre resources; occasioning the shortage of prisoners' uniform, blankets, mattresses and medical drugs, amongst other essentials. Community Service Order is now being increasingly used by courts to punish and rehabilitate non-serious offenders. This has helped to partially address the issue of prison congestion.

- Owing to the harsh life of incarceration, prisoners face psychological torture due to physical separation with their families. Prison life has made them lose hope and confidence, rendering the inmates vulnerable to stress and depression. Noteworthy, counselling programmes conducted by prisons are helping them to cope.
- The Committee also noted the disturbingly high numbers of youthful offenders being imprisoned for Sexual Offences.
- Inmates suffering from terminal illnesses, those living with disabilities and the aged asked for special consideration for pardon from the Committee.

The above concerns were addressed by the Committee during the Question and Answer session.



## Pictorial representation of the Correctional Facilities visited by the Committee during the period under review

### Malindi Main & Women Prisons



*Courtesy call on the Kilifi County Commissioner Mr. Magu Mutindika (middle) at his offices Kilifi County on 23/10.2019*





*Inmates (above) at the Committee's Malindi Main Prison visit on 23/10/2019*

## Murang'a Main & Women Prisons



*An inmate at the Murang'a Main Prison reads out a petition on behalf of other inmates at the Correctional Facility*



*Committee members, Secretariat and Senior Prisons staff at the Murang'a Main Prison on 14/08/2019*

## Nyandarua Prison





## Ruiru & Kiambu Prisons



*Mr. Geoffrey Ithai, Ruiru Deputy County Commissioner (middle, above) hosted the Committee during a visit to Ruiru Sub County and Ruiru Prison on 11/09/2019*



*Committee Vice Chairperson Dr. Janet Kirui addresses inmates at the Ruiru Prison on 11/09/2019*

## Thika Main & Women Prisons





*Inmates at the Thika Main Prison follow proceedings. The Committee visited the Correctional Facility on 27/07/2019*

## Thompson Falls Main & Women Prisons



*A section of inmates at the Thompson Falls Main Prison*



*Above and below: Inmates at the Thompson Falls Women and Main Prisons present their memorandum to the Committee during a visit to the Correctional Facility on 15/08/2019*



## Shimo la Tewa Women Prison



*Committee Vice Chairperson Dr. Janet Kurui (left) presents gifts to staff and inmates of Shimo la Tewa Women Prison*



*An inmate at the Shimo la Tewa Women Prison makes a presentation during the Committee visit on 25/10/2019*



## Hindi Prison



*Committee members, Secretariat Staff and members of the Lamu Court Users Committee, during the Committee's visit to Hindi Prison, Lamu County, on 22/10/2019*



*The Committee sensitizes Hindi Prison inmates on 22/10/2019*



STATE OF THE PROVINCE  
MINISTRY OF LOCAL GOVERNMENT  
ADMINISTRATION AND REGIONAL DEVELOPMENT  
LEADERS  
TO BE THE LEADING ALONG IN COMMITMENT TO  
EXCELLENT LEADERSHIP AND COMMITMENT  
FOR KENYA'S PROGRESS

MISSION STATEMENT

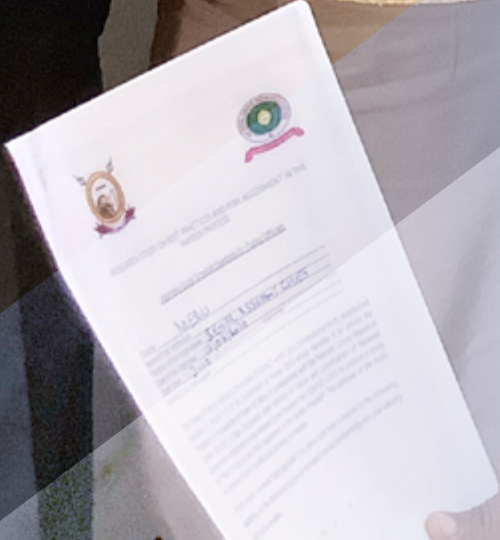
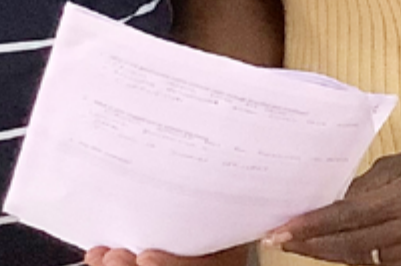
TO BE SERIOUSLY COMMITTED TO THE  
PROVISION OF LEADERSHIP AND  
ADMINISTRATIVE SERVICES  
TO THE PEOPLE OF THE PROVINCE

HOUSE OF PRAISE  
& Breakthrough



MOGONA MACANNO

COME AND CALL  
US TODAY AT  
011-254-200-1000



## RESEARCH

Among other functions, the Power of Mercy Act provides that the Committee shall undertake or commission research and collect data relating to the power of mercy. In line with this function, during the FY the Committee commissioned a research study on 'Best Practices and Risk Assessment in the Pardon Process'. The study was conducted in collaboration with the National Crime and Research Center (NCRC), whose mandate is to carry out research into crime trends, causes, consequences and prevention.

The key objectives of the study were:

- To identify best practices that could enhance the pardon process.
- To assess the risk management system in the pardon process and establish any gaps.

### Research Planning

During the month of February 2020, the Committee and the NCRC jointly hosted a Stakeholder forum to review the research tools developed by POMAC. The forum was attended by participants from the Attorney General's Office and the Department of Justice, National Police Service, DCI, NIS and the Kenya Prison Service. Other participants at the Forum included the Victim Protection Agency, Ministry of Health, Probation and Aftercare Service, Department of Gender, Kenya National Human Rights Commission and the State Department of Gender. The meeting's agenda was to review the research tools to obtain input from the stakeholders.

A second meeting was also held by the NCRC Governing Council to review the research tools. Several issues were deliberated upon during the forums including risk assessment in the pardon process, inter-agency collaboration and recidivism.

The stakeholders agreed that the proposed research study was timely and subsequently recommended a comprehensive research on recidivism. Issues about resettlement and reintegration of offenders also emerged during the discussions. As a result, the stakeholders recommended a comprehensive research on all offenders who had received executive clemency. They projected that the findings of such a study would provide accurate information that would be useful in aiding

the Government to formulate relevant policies. Following the discussions with stakeholders, research tools were updated and planning finalized for the research. Training was then conducted for a team of researchers who would be involved in data collection.

## Data Collection

Data collection for the Best Practices and Risk Assessment in Pardon Process research study was conducted over a span of 15 days from 16th - 30th June 2020. The exercise was carried out in eleven (11) counties namely: West Pokot, Uasin Gishu, Kisumu, Kakamega, Nakuru and Nyeri. Others included Meru, Garissa, Makueni, Taita Taveta and Nairobi. The National Government Administrative Officers (NGAO) and Probation and Aftercare Service were instrumental in facilitating the research teams during the course of the exercise.

Data for the research was collected through four (4) methods:

- Administering of questionnaires to public officials in the aforementioned 11 counties. Respondents included: officials from the various security agencies in the country, NGAO, judicial officers, prosecutors, mental health professionals, representatives from the witness protection board and correctional service personnel, amongst other state actors;
- Key informant interviews, which involved pardoned offenders and victims of crime;
- A comparative review of pardon practices and risk assessment – as conducted – in other jurisdictions;
- Review of secondary data from various sources.

Four hundred and fifty questionnaires were administered to public officials, while forty-four key informants were targeted.

## Objectives

The key objectives of the study were:

- i) to establish the current state of pardon practice and identify best practices that could enhance administration of pardons in Kenya;
- ii) to assess the risk assessment procedures in the pardon process to establish any gaps and establish best practice in risk management.

It was envisioned that the findings of the research will help to improve the

Committee's systems, structures and processes, which will ultimately contribute to the government's big four agenda by enabling a safer society.

### **Research Focus areas**

Some of the key thematic areas of the research were:

- General awareness about pardons
- Pardon process and practices
- Risk assessment and management practices
- Psychiatric offenders
- Resettlement and reintegration of pardoned offenders
- Recidivism
- Rehabilitation programmes offered to offenders
- Supervision of pardoned offenders
- Victims of crime

### **Research Coordination**

The research exercise was coordinated by the POMAC Secretariat staff who reported regularly to the Committee on the progress within agreed timeframes.

At the time of reporting, data analysis and report writing for the study was ongoing.



*Above and below: POMAC Secretariat and NCRC staff administer questionnaires to National Government Administration Officers while undertaking a study on the Best Practices and Risk Assessment in the Pardon Process.*





## SECRETARY'S APPOINTMENT

On December 16th 2019, Dr. Lydia Muriuki was appointed, in acting capacity, as the Committee's Secretary. Prior to the appointment, Dr. Muriuki was serving Secretary, Policy and Strategy Coordination in the Presidential Policy and Strategy Unit.

In her career spanning over three decades in the Public Service, Dr. Muriuki, who is the current Vice Chair Lady of the Kenya Institute of Management (KIM) Council, brings a wealth of experience in Strategic Leadership, Public Administration and Security Management. She has served as the Director of Administration in the State Department of Infrastructure; Secretary of Social Development in the Ministry of Labor, Social Security and Services; Regional Commissioner Eastern Nyanza; County Commissioner – Kisii, and, Deputy Secretary in charge of Reforms and Training at the then Ministry of Provincial Administration and Internal Security.

Dr. Muriuki takes over from Mr. Michael Kagika, who served the inaugural Committee of the Power of Mercy until the expiry of its tenure in October 2016. Mr. Kagika also managed the transition of the second Committee, which assumed office on 7th May 2018. In total, Mr. Kagika served as the Secretary to the Committee for six years, having assumed office on 20th August, 2014. The Committee wishes to express its gratitude to the outgoing Secretary for his dedication and commitment. The Committee welcomes the new Secretary and wishes her well in the new assignment.

On 11th January 2020, Dr. Muriuki assumed office from Mr. Kagika. The hand-over ceremony, which took place at the Committee's office, Kencom House, was witnessed by Secretariat Staff. The following are illustrative photos of the transition.



**HAND-OVER CEREMONY PHOTOS, KENCOM HOUSE: 11<sup>TH</sup> JANUARY, 2020**







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THE POWER OF MERCY ADVISORY COMMITTEE

## **REPORTS AND FINANCIAL STATEMENTS**

FOR THE FINANCIAL YEAR ENDED JUNE 30, 2020

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Prepared in accordance with the Cash Basis of Accounting Method  
under the International Public Sector Accounting Standards (IPSAS)

## 1. KEY ENTITY INFORMATION AND MANAGEMENT

### (a) Background information

The Power of Mercy Advisory Committee was established in the year 2011 pursuant to Article 133 of the Constitution of Kenya, 2010

The Committee comprises of the Hon. Attorney General, who is the Chairman, the Cabinet Secretary responsible for Correctional Services, and seven (7) other members appointed by His Excellency the President. A Vice Chair is elected by the members from amongst the seven appointed members.

### (b) Principal Activities

The principal mission of POMAC To receive and consider petitions by convicted criminal offenders, research and collaborate with other relevant organs and expeditiously render independent advice to the President on the exercise of Power of Mercy.

### Key Management

The entity's day-to-day management is under the following key organs:

- The Secretariat, and
- The Advisory Committee

### (c) Fiduciary Management

The key management personnel who held office during the financial year ended 30th June 2020 and who had direct fiduciary responsibility were:



**Dr. Lydia Muriuki (OGW)**  
Secretary/Chief Executive  
Officer

The Secretary, POMAC has direct fiduciary responsibility for the Power of Mercy Advisory Committee (POMAC). Dr. Lydia Muriuki was appointed, in acting capacity, as the Committee's Secretary on 16th December, 2019 and is entrusted with providing strategic leadership to the Committee to facilitate delivery of its mandate as per the Constitution and POMAC Act. She holds a Ph.D in Business Management (Strategic Management) and Masters in Business Administration from Moi University, Eldoret.

**(d) Fiduciary Oversight Arrangements**

The Power of Mercy Advisory Committee provides a fiduciary oversight role to the management through:

- Policy directions on the activities to be implemented
- Approval of annual work plans
- Consideration of activity budgets

**(e) Entity Headquarters**

P.O. Box 79960-00200  
2nd floor Kencom House  
Moi Avenue Nairobi, KENYA

- (a) ENTITY CONTACTS  
Telephone: (254) 2210144  
E-mail: sec.pomac@kenya.go.ke  
Website: www.go.ke
- (b) ENTITY BANKERS  
Central Bank of Kenya  
Haile Selassie Avenue  
P.O. Box 60000  
City Square 00200  
Nairobi, Kenya.
- (c) INDEPENDENT AUDITORS  
Auditor General  
Kenya National Audit Office  
Anniversary Towers, University Way  
P.O. Box 30084  
GOP 00100  
Nairobi, Kenya
- (d) PRINCIPAL LEGAL ADVISER  
The Attorney General  
State Law Office  
Harambee Avenue  
P.O. Box 40112  
City Square 00200  
Nairobi, Kenya

## I. STATEMENT OF COMMITTEE MANAGEMENT RESPONSIBILITIES

Section 29 (1) of The Power of Mercy Act, 2011 requires that, at the end of each financial year, the Power of Mercy Advisory Committee shall cause annual report to be prepared. Section 29 (3) (a) further require that the report shall contain, in respect to that financial year to which it relates, the financial statements of the Committee. Section 81 (3) of the Public Finance Management Act, 2012 requires the financial statements so prepared to be in a form that complies with relevant accounting standards as prescribed the Public Sector Accounting Standards Board of Kenya from time to time.

The Secretary in charge of The Power of Mercy Advisory Committee is responsible for the preparation and presentation of the entity's financial statements, which give a true and fair view of the state of affairs of the entity for and as at the end of the financial year (period) ended on June 30, 2020. This responsibility includes: (i) maintaining adequate financial management arrangements and ensuring that these continue to be effective throughout the reporting period; (ii) maintaining proper accounting records, which disclose with reasonable accuracy at any time the financial position of the entity; (iii) designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements, and ensuring that they are free from material misstatements, whether due to error or fraud; (iv) safeguarding the assets of the entity; (v) selecting and applying appropriate accounting policies; and (vi) making accounting estimates that are reasonable in the circumstances.

The Secretary in his role as the accounting officer for the Power of Mercy Advisory Committee accepts responsibility for the entity's financial statements, which have been prepared on the Cash Basis Method of Financial Reporting,

Approval of the financial statements

The entity's financial statements were approved and signed by the Accounting Officer on 30th September 2020.

  
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Secretary

  
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using appropriate accounting policies in accordance with International Public Sector Accounting Standards (IPSAS). The Accounting Officer is of the opinion that the entity's financial statements give a true and fair view of the state of entity's transactions during the financial year ended June 30, 2020, and of the entity's financial position as at that date. The Accounting Officer in charge of the Power of Mercy Advisory Committee further confirms the completeness of the accounting records maintained for the entity, which have been relied upon in the preparation of the entity's financial statements as well as the adequacy of the systems of internal financial control.

The Accounting Officer in charge of The Power of Mercy Advisory Committee confirms that the entity has complied fully with applicable Government Regulations and the terms of external financing covenants (where applicable), and that the entity's funds received during the year under audit were used for the eligible purposes for which they were intended and were properly accounted for. Further the Accounting Officer confirms that the entity's financial statements have been prepared in a form that complies with relevant accounting standards prescribed by the Public Sector Accounting Standards Board of Kenya.

**II. STATEMENT OF RECEIPTS AND PAYMENTS**

	Note	2019-2020	2018-2019
		Kshs	Kshs
<b>RECEIPTS</b>			
Exchequer releases	1	55,225,960	60,138,950
<b>TOTAL RECEIPTS</b>		<b>55,255,960</b>	<b>60,138,950</b>
<b>PAYMENTS</b>			
Use of goods and services	2	54,370,632	57,515,004
Acquisition of Assets	3	855,328	2,623,946
<b>TOTAL PAYMENTS</b>		<b>55,370,632</b>	<b>60,138,950</b>
<b>SURPLUS/DEFICIT</b>		nil	nil

The accounting policies and explanatory notes to these financial Statements form an integral part of the financial statements. The entity financial statements were approved on 30th September, 2020 and signed by:


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Secretary

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**III. STATEMENT OF CASHFLOW**

	Note	2019-2020	2018-2019
		Kshs	Kshs
<b>Receipts for operating income</b>			
Exchequer Releases	1	55,225,960	60,138,950
<b>Payments for operating expenses</b>			
Use of goods and services	2	54,370,632	57,515,004
<b>Adjusted for:</b>			
Adjustments during the year			
<b>Net cash flow from operating activities</b>		<b>855,328</b>	<b>2,623,946</b>
<b>CASHFLOW FROM INVESTING ACTIVITIES</b>			
Proceeds from Sale of Assets		-	-
<b>Acquisition of Assets</b>	<b>3</b>	<b>855,328</b>	<b>2,623,946</b>
Net cash flows from Investing Activities		-	-
NET INCREASE IN CASH AND CASH EQUIVALENT		-	-
Cash and cash equivalent at BEGINNING of the year		-	-
Cash and cash equivalent at END of the year		-	-

The accounting policies and explanatory notes to these financial statements form an integral part of the financial statements. The entity financial statements were approved on 30th September, 2020 and signed by:

  
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Secretary

  
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**I. SUMMARY STATEMENT OF APPROPRIATION: RECURRENT**

Receipt/Expense Item	Original Budget a	Adjustment b	Final Budget c=a+b	Actual on Comparable Basis d	Budget Utilisation Difference e=c-d	% of Utilisation f=d/c %
<b>PAYMENTS</b>						
Communication, supplies and services	1,019,853	1,019,853	2,039,706	1,630,043	409,663	80%
Domestic travel and subsistence	5,994,124	3,901,083	9,895,207	9,733,124	162,083	98%
Foreign travel and subsistence	1,548,736	548,736	2,097,472	2,090,339	7,133	100%
Printing, advertising and information supplies & services	1,237,342	837,342	2,074,684	1,962,892	111,792	95%
Training expenses	1,829,976	-415,636	1,414,340	1,414,340	0	100%
Hospitality supplies and services	12,776,748	17,176,748	29,953,496	27,396,552	2,556,944	91%
Insurance Costs	128,626	128,626	257,252	19,2000	65,252	75%
Specialized materials and services	1,150,156	150,156	1,300,312	243,516	1,056,796	19%
Office and general supplies and services	2,083,980	2,083,980	4,167,960	3,779,189	388,771	91%
Fuel oils and Lubricants	1,171,374	1,171,374	2,342,748	2,332,200	10,548	100%
Other operating expenses	1,254,559	254,559	1,509,118	1,500,100	-187,907	99%
Routine maintenance – vehicles and other transport equipment	756,154	756,154	1,512,308	1,220,050	292,258	81%
Routine maintenance – other assets	885,368	285,368	1,170,736	876,287	294,449	75%
Purchase of Office Furniture and General Equipment	975,564	575,564	1,551,128	855,328	695,800	55%
<b>Total Payments/Expenditure</b>	<b>32,812,560</b>	<b>28,473,907</b>	<b>61,286,467</b>	<b>55,225,960</b>	<b>5,863,582</b>	<b>90%</b>

The entity financial statements were approved on \_\_\_\_\_ 2020 and signed by:

  
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Secretary

  
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#### **IV. SIGNIFICANT ACCOUNTING POLICIES**

The principle accounting policies adopted in the preparation of these financial statements are set out below:

##### **(a) Statement of compliance and basis of preparation**

The financial statements have been prepared in accordance with Cash-basis IPSAS financial reporting under the cash basis of Accounting, as prescribed by the PSASB and set out in the accounting policy notes below.

This cash basis of accounting has been supplemented with accounting for; a) receivables that include imprests and salary advances and b) payables that include deposits and retentions. The receivables and payables are disclosed in the Statement of Assets and Liabilities. The Statement of Assets and Liabilities is not mandatory statement under the IPSAS Cash basis but is encouraged in order to disclose information on assets and liabilities.

The financial statements are presented in Kenya Shillings, which is the functional and reporting currency of the entity all values are rounded to the nearest Kenya Shilling. The accounting policies adopted have been consistently applied to all the years presented.

The financial statements comply with and conform to the form of presentation prescribed by the PSASB.

##### **(b) Reporting entity**

The financial statements are for The Presidency. The financial statements encompass the reporting entity as specified under section 81 of the PFM Act 2012 and also comprise of the following development projects implemented by the entity:

##### **(c) Recognition of receipts and payments**

###### **Recognition of receipts**

The Entity recognises all receipts from the various sources when the event occurs and the related cash has actually been received by the entity.

###### **Tax receipts**

Tax Receipts is recognized in the books of accounts when cash is received. Cash is considered as received when notification of tax remittance is received.

###### **Transfers from the Exchequer**

Transfer from Exchequer is recognized in the books of accounts when cash is received. Cash is considered as received when payment instruction is issued to the bank and notified to the receiving entity.

## SIGNIFICANT ACCOUNTING POLICIES(CONTINUED)

**External Assistance**

External assistance is received through grants and loans from multilateral and bilateral development partners.

**Donations and grants**

Grants and donations shall be recognized in the books of accounts when cash is received. Cash is considered as received when a payment advice is received by the recipient entity or by the beneficiary. In case of grant/donation in kind, such grants are recorded upon receipt of the grant item and upon determination of the value. The date of the transaction is the value date indicated on the payment advice.

**Proceeds from borrowing**

Borrowing includes Treasury bill, treasury bonds, corporate bonds; sovereign bonds and external loans acquired by the entity or any other debt the Entity may take on will be treated on cash basis and recognized as receipts during the year of receipt.

**Undrawn external assistance**

These are loans and grants at reporting date as specified in a binding agreement and relate to funding for projects currently under development where conditions have been satisfied or their ongoing satisfaction is highly likely and the project is anticipated to continue to completion. During the year ended 30th June 2018, there were no instances of non-compliance with terms and conditions which have resulted in cancellation of external assistance loans.

**Other receipts**

These include Appropriation-in-Aid and relates to receipts such as proceeds from disposal of assets and sale of tender documents. These are recognised in the financial statements the time associated cash is received.

**Recognition of payments**

The entity recognises all expenses when the event occurs and the related cash has actually been paid out by the entity.

**Compensation of employees**

Salaries and Wages, Allowances, Statutory Contribution for employees are recognized in the period when the compensation is paid.

**Use of goods and services**

Goods and services are recognized as payments in the period when the goods/services are consumed and paid for. Such expenses, if not paid during the period where goods/services are consumed, shall be disclosed as pending bills.

## SIGNIFICANT ACCOUNTING POLICIES(CONTINUED)

**Interest on borrowing**

Borrowing costs that include interest are recognized as payment in the period in which they incurred and paid for.

**Repayment of borrowing (principal amount)**

The repayment of principal amount of borrowing is recognized as payment in the period in which the repayment is made.

**Acquisition of fixed assets**

The payment on acquisition of property plant and equipment items is not capitalized. The cost of acquisition and proceeds from disposal of these items are treated as payments and receipts items respectively. Where an asset is acquired in a non-exchange transaction for nil or nominal consideration and the fair value of the asset can be reliably established, a contra transaction is recorded as receipt and as a payment.

A fixed asset register is maintained by each public entity and a summary provided for purposes of disclosure. This summary is disclosed as an annexure to the entity's financial statements.

**In-kind contributions**

In-kind contributions are donations that are made to the State Department in the form of actual goods and/or services rather than in money or cash terms. These donations may include vehicles, equipment or personnel services. Where the financial value received for in-kind contributions can be reliably determined, the State Department includes such value in the statement of receipts and payments both as receipts and as an expense in equal and opposite amounts; otherwise, the contribution is not recorded.

**Cash and cash equivalents**

Cash and cash equivalents comprise cash on hand and cash at bank, short-term deposits on call and highly liquid investments with an original maturity of three months or less, which are readily convertible to known amounts of cash and are subject to insignificant risk of changes in value. Bank account balances include amounts held at the Central Bank of Kenya and at various commercial banks at the end of the financial year.

**Restriction on cash**

Restricted cash represents amounts that are limited /restricted from being used to settle a liability for at least twelve months after the reporting period. This cash is limited for direct use as required by stipulation.

Amounts maintained in deposit bank accounts are restricted for use in refunding third party deposits. There were no other restrictions on cash during the year

## SIGNIFICANT ACCOUNTING POLICIES(CONTINUED)

**Accounts Receivable**

For the purposes of these financial statements, imprests and advances to authorised public officers and/or institutions which were not surrendered or accounted for at the end of the financial year are treated as receivables. This is in recognition of the government practice where the imprest payments are recognized as payments when fully accounted for by the imprest or AIE holders. This is an enhancement to the cash accounting policy. Other accounts receivables are disclosed in the financial statements.

**NOTES TO THE FINANCIAL STATEMENTS**

	2019 - 2020	2018 - 2019
	Kshs	Kshs
<b>1. EXCHQUER RELEASES</b>		
Total Exchequer Releases for quarter 1	13,806,490	15,034,738
Total Exchequer Releases for quarter 2	13,806,490	15,034,738
Total Exchequer Releases for quarter 3	13,806,490	15,034,738
Total Exchequer Releases for quarter 4	13,806,490	15,034,738
<b>Total</b>	<b>55,225,960</b>	<b>60,138,950</b>

**2. USE OF GOODS AND SERVICES**

Communication, supplies and services	1,630,043	1,474,788
Domestic travel and subsistence	9,733,124	9,013,371
Foreign travel and subsistence	2,090,339	1,958,476
Printing, advertising and information supplies & services	1,962,892	923,946
Training expenses	1,414,340	2,409,409
Hospitality supplies and services	27,396,552	29,576,361
Insurance Costs	19,2000	1,954,521
Specialised Materials and Supplies	243,516	
Office and general supplies and services	3,779,189	2,989,444
Fuel oils and Lubricants	2,332,200	2,010,084
Other operating expenses	1,500,100	545,243
Routine maintenance –Other Assets	1,220,050	1,122,505
Routine maintenance – Motor Vehicle	876,287	3,536,856
<b>Total</b>	<b>54,370,632</b>	<b>57,515,004</b>

## NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

**3. ACQUISITION OF ASSETS**

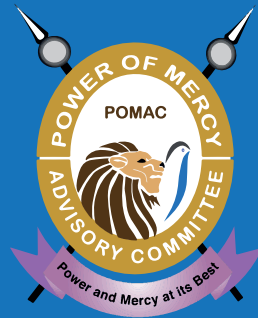
## Non-Financial Assets

Purchase of Office Furniture and General Equipment	855,328	2,623,946
<b>Total</b>	<b>855,328</b>	<b>2,623,946</b>

**ANNEX 1 – SUMMARY OF FIXED ASSET REGISTER**

Asset class	2019-2020	2018-2019
	Historical Cost (Kshs)	Historical Cost (Kshs)
Office equipment, furniture and fittings	855,328	2,623,946
Other Machinery and Equipment	-	
<b>Total</b>	<b>855,328</b>	<b>2,623,946</b>





All Enquiries and Petitions to be sent to:

**THE POWER OF MERCY ADVISORY COMMITTEE**

2nd floor, Kencom House, Moi Avenue  
P.O. Box 79960 - 00200 **Nairobi, Kenya**

Tel: 020 221 0144

Email: [sec.pomac@cabinetoffice.go.ke](mailto:sec.pomac@cabinetoffice.go.ke)

Website: [www.powerofmercy.go.ke](http://www.powerofmercy.go.ke)