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EXECUTIVE OFFICE OF THE PRESIDENT

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

ANNUAL REPORT AND  
FINANCIAL STATEMENTS

FINANCIAL YEAR 2021/2022



THE NATIONAL ASSEMBLY  
PAPERS LAID

DATE: 16 MAR 2023

DAY.


Thursday

TABLED  
BY:

Deputy Majority  
Party Leader

CLERK OF  
THE TABLE:

Joyce Lemerelle

 <b>THE NATIONAL ASSEMBLY PAPERS LAID</b>	
<b>DATE:</b> 16 MAR 2023	<b>DAY:</b> Thursday
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ADVISORY COMMITTEE  
(POMAC)**



ANNUAL REPORT AND  
FINANCIAL STATEMENTS  
FINANCIAL YEAR 2021/2022





#### **MOTTO**

Power and mercy at its best

#### **VISION**

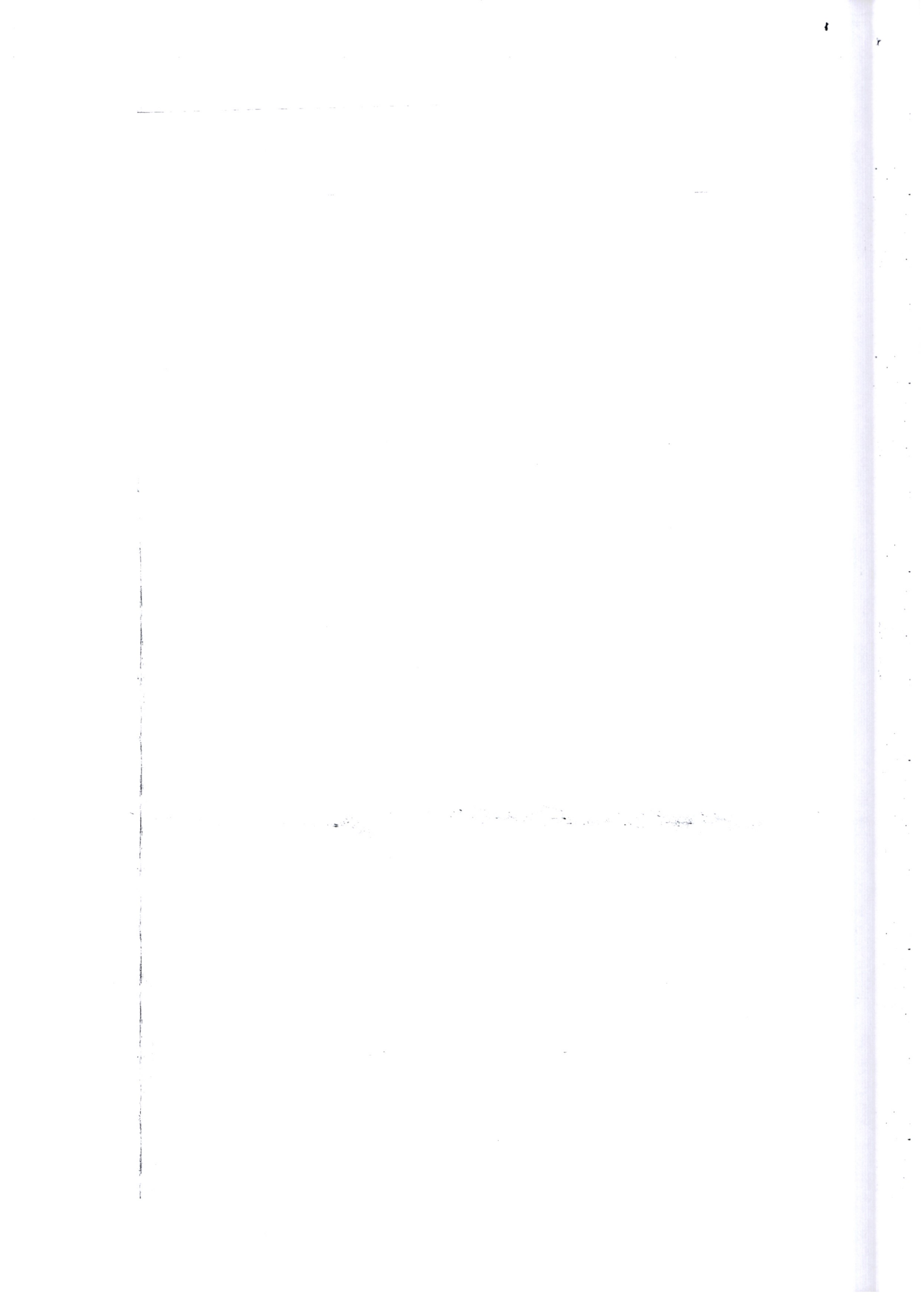
"Excellence in rendering advice on the Power of Mercy"

#### **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

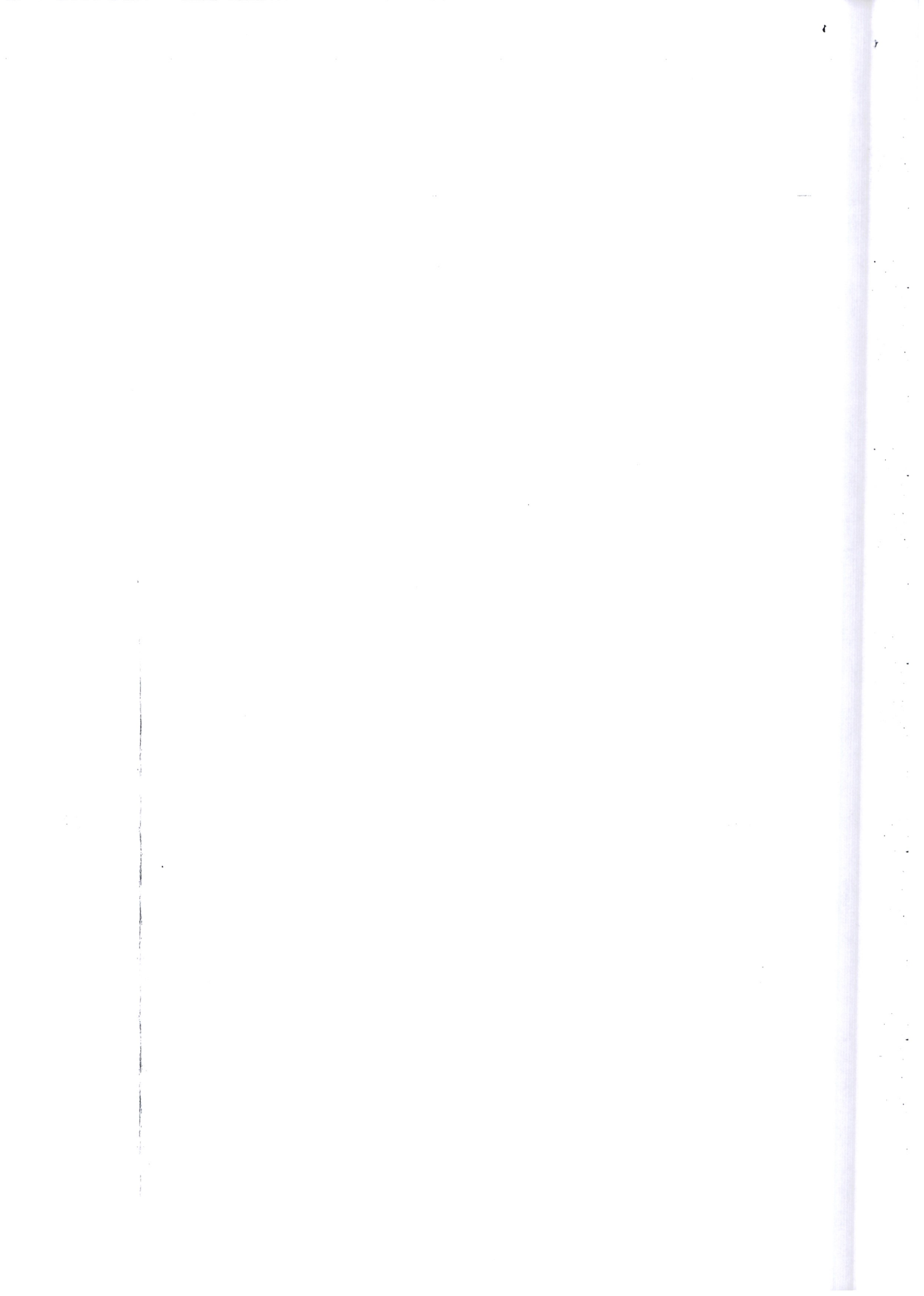
#### **CORE VALUES**

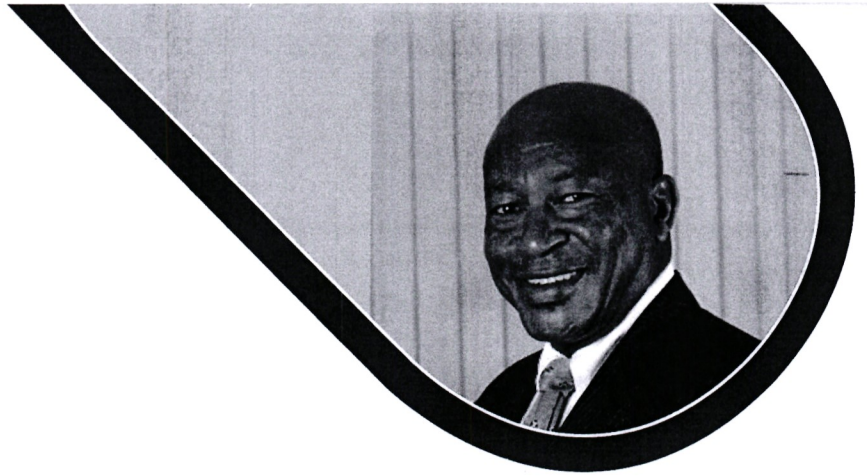
Integrity  
Transparency  
Accountability  
Professionalism  
Social Justice  
Teamwork



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## CHAIRPERSON'S STATEMENT

It gives me great pleasure to present the Power of Mercy Advisory Committee's Annual Report and Financial Statements for FY 2021/2022. This is the ninth Annual Report by the Committee and it is presented in compliance with section 29 of the Power of Mercy Act, 2011.

As you are aware, in accordance with Article 133 of the Constitution of Kenya, the President exercises the power of mercy on the advice of the Power of Mercy Committee. This power is exercised in the form of a free or conditional pardon to person convicted of an offence; the postponement of the carrying out of a punishment for a specified or indefinite period; the substitution of a punishment with a less severe one; and the remission of all or part of a punishment. In the period under review, the President pardoned two thousand nine hundred and ninety-three (2,993) petitioners, and the announcement of the pardons was made on Madaraka Day, the 1st June, 2022.

I am pleased to report that the Multi-Agency Task Force that I appointed in 2021 to review the laws relating to Article 133 of the Constitution has recommended a detailed framework for the operationalization of Article 133. These recommendations have now been set out in a Draft Policy and Draft Bill which, when adopted and enacted by Parliament, will re-engineer the petition process and result in better outcomes for petitioners.

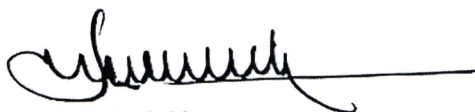
In particular, the Task Force's recommendations focus on the clemency landscape and include sealing of criminal records to provide pardoned persons with better opportunities for gainful employment; the establishment of a multi-agency reintegration and empowerment committee to assist pardoned persons in re-entering and reintegrating in society; the establishment of a framework for pardoning Kenyans and foreigners as distinct categories of petitioners; and parole and pardon as forms of the exercise of the President's power under Article 133. I note with appreciation the concerted efforts of critical actors in the criminal justice system whose collaborative and co-operative approach made the work of the Task Force a success.

I am also pleased to report that, during the period under review, the Committee, in collaboration with the Information and Communication Technology Authority, leveraged technology and digitized the petition process by establishing the Electronic Petition Management Information System which is used in the petition process from the filing of petitions to the determination of the petitions. This has enabled petitioners to monitor their petitions through the new digital platform and provides an opportunity to the general public to access relevant information, thereby enhancing transparency and accountability in the petition process.

I note with satisfaction that the System was showcased at the Africa Public Service Day held on the 21st to 23rd June, 2022 at the Kenyatta International Convention Centre in the Leveraging on Technology Category. The Committee will accelerate its efforts to implement other quick wins, building on its recent successes.

Finally, recognizing that an ethical culture is the foundation of a successful organization, the Committee will continue to institutionalize ethics in its work and guided by strong value systems of integrity, transparency, accountability, professionalism, social justice and teamwork.

On behalf of the Committee, I am grateful to the Executive Office of the President, the actors in the criminal justice system and all the Committee's partners for their support and look forward to greater success in our joint endeavour in the fulfilment of the Committee's mandate and ensure that petitions are considered and determined in a manner that does not undermine the value of judicial decisions or the equilibrium that exists between the Executive and Judicial branches of Government.



**P. Kihara Kariuki**  
Attorney General & Chairperson



## SECRETARY'S STATEMENT

I am delighted to present the milestones covered by the Power of Mercy Advisory Committee (POMAC) during the financial year 2021/2022. I recognize with appreciation the unwavering support of the critical actors in the criminal justice system. As a committee we shall endeavour to deepen stakeholder partnerships and collaborations in order to achieve positive outcomes in the petition process.

During the period under review, the Committee processed petitions submitted by defense officers convicted by the court martial, long term offenders and those detained under the president's pleasure. The Committee also processed request for Amnesty for petty offenders recommended by the Prisons Department. Out of these petitions, two foreigners and one defense officer convicted by the court martial were granted pardon by the President. Additionally 2,993 petty offenders were also granted Amnesty by the President during the Madaraka Day Celebrations on 1<sup>st</sup> June, 2022.

In the furtherance of it's mandate, the Committee ensures that the Mercy process is predictable and procedural in order to ensure that only eligible convicted offenders are recommended for pardon. The Committee has also identified Best Practices in the criminal jurisprudence and strategies to counter recidivism from its collaboration in research with the National Crime Research Centre. Moving forward, the Committee will focus beyond monitoring and help the pardoned convicts reintegrate and engage in income-generating activities.

I note with appreciation that the Taskforce appointed by the Hon Attorney General to review the Laws related to Article 133 of the constitution has made far reaching recommendations which will change the Mercy Landscape. Moving forward, the Committee shall crystalize the efficacy of the recommendations with its functions and realign them with the emerging needs and best practices in other countries. Once fully implemented, these recommendations will culminate into a new framework for the administration of the Power of Mercy and result to better outcomes for the petitioners

It is noteworthy that the Committee has moved with speed and have implemented some of the quick wins identified by the Taskforce. In collaboration with ICT Authority, POMAC has developed an electronic Petition Management Information System (ePMIS) thereby fully automating the entire petition process. The system responds to the need of the petitioners for a robust system that is feedback enabled to help track the outcome of the petitions.

The ePMIS was launched by the Hon The Attorney General on 13<sup>th</sup> March, 2022 at the KICC was also showcased during the Africa Public Service Day in June 2022. This system ushers in a new dispensation in the administration of Mercy in Kenya. It is important to mention that the said ePMIS is integrated and will enhance collaboration, openness and inclusivity while supporting the Committee to discharge its core mandate.

In order for the petition process to result to better outcomes for the petitioner, there is need for a robust Multi-Agency approach to the rehabilitation, reintegration, resettlement and empowerment of the pardonees. Such an approach will enable all the critical stakeholders to collaborate and harness their efforts. Further, it will allow the pardonees to utilize gainfully the skills acquired through correctional facilities' rehabilitation programs.

Closely tied to this is the need for County-specific interventions and the de-stigmatization initiatives since to a large extent, successful reintegration of the pardonees depends on their acceptance by both 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.

In line with the recommendations of the Taskforce, we look forward to the increase in the budgetary allocation because this will open up new opportunities for the committee and provide an exciting future for the petitioners. In order to boost the operations, the committee will continue to engage The National Treasury, The Presidency and other government agencies for both financial and human resources that are a prerequisite for effective and efficient service delivery. In so doing the POMAC will give full effect to Article 133 of the Constitution and meet the aspirations of the Kenyan public.

In conclusion I recognise that these milestones could not have been achieved had it not been for the active and unwavering support of the Attorney General. POMAC also appreciates in a special way the support by Prisons Department, the Probation and Aftercare Department, the Cabinet Affairs Office, the National Government Administrative Officers. Last but not least special thanks to all the State and Non State Actors in the criminal justice system who have walked along with us in this journey.



**Dr. Lydia Muriuki, EBS**  
Secretary

## **COMMITTEE MEMBERS**

Hon. P. Kihara Kariuki, EGH – Chairperson

Dr. Janet Kirui, OGW – Vice Chairperson

Dr. Fred Matiang'i, EGH – Member

Mr. Jerim Oloo, MBS – Member

Dr. Scholastic Adeli, OGW – Member

Mr. David Macharia, MBS – Member

Mr. Richard Mativu, OGW – Member

Mr. Abdi Hassan, OGW – Member

Dr. Lydia Muriuki, EBS – Secretary



Hon. P. Kihara Kariuki, EGH  
CHAIRPERSON



Dr. Janet Kirui, OGW  
VICE CHAIRPERSON



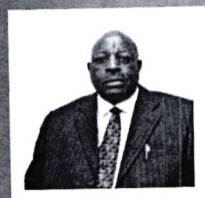
Dr. Fred Matiang'i, EGH  
MEMBER



Mr. Jerim Oloo, MBS  
MEMBER



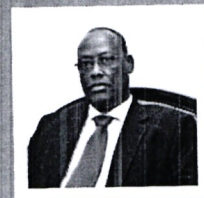
Dr. Scholastic Adeli, OGW  
MEMBER



Mr. David Macharia, MBS  
MEMBER



Mr. Richard Mativu, OGW  
MEMBER



Mr. Abdi Hassan, OGW  
MEMBER



Dr. Lydia Muriuki, EBS  
SECRETARY

## INTRODUCTION

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

The Power of Mercy Advisory Committee (POMAC) is a constitutional committee established pursuant to Article 133 of the Constitution of Kenya 2010, and operationalized by The Power of Mercy Act No. 21 of 2011. The committee's core mandate is to advise the President on the exercise of the Power of Mercy. The Act provide 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 mercy process is predictable and procedural. The establishment of the Committee was part of the criminal justice system reforms.

### **Functions of the Committee**

In addition to the functions set out in Article 133 (1) and (4) of the constitution, the Advisory 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.

#### **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.

#### **Composition of the Committee**

The composition of the Power of Mercy Advisory Committee is provided for under Article 133(2) of the Constitution of Kenya and section 5 (1)&(2) of the Power of Mercy Act 2011 to comprise 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 Chairperson**

The chairperson shall, within seven days of the appointment of the members, convene the first meeting of the Committee at which the members shall elect the vice chairperson of the Committee from amongst their number.

#### **The Vice Chairperson**

The vice-chairperson shall chair all the Committee meetings where the chairperson is absent. Where the chairperson and vice-chairperson are absent, the committee members shall elect one member among themselves to chair the Committee meeting.

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### **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**

Section 17 of the Power of Mercy Act provides for the appointment of Pardon Officers, who are public officers seconded to the Committee and stationed at all the correctional facilities in the country to perform the following functions:

- a) report directly to the Committee on all matters related to the power of mercy;
- b) advice the internal mechanism in each correctional facility on all matters related to the exercise of the power of mercy; and
- c) be responsible for assisting the applicants in the preparation of petitions and providing general information on the power of mercy to the prisoners.



## PETITION FOR THE EXERCISE OF POWER OF MERCY

### Introduction

Article 133 (1) Of the Constitution of Kenya provides that on petition of any person, the President may exercise power of mercy in accordance with the advice of the Advisory Committee by granting any of the following reliefs:

- 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.

In the period under review, retired president H.E Uhuru Kenyatta pardoned 2,993 petitioners on recommendation by the Power of Mercy Advisory Committee during Madaraka Day celebrations on 1st June, 2022.

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

Section 19 of the Power of Mercy Act provide for the eligibility to file a petition for the exercise of the power of mercy. Section 19 (2) states that a petition shall not be permitted where:

- a) The person for whose benefit it is made is on Probation or serving a suspended sentence
- b) The person has a pending judicial remedy before a court

Where a petition does not pass the eligibility test, the petitioner is notified of the reasons thereof.

### Admissibility

Admissibility is the inherent power within the Committee set by the Act to either admit or defer a petition therefore rendering it inadmissible. In determining the admissibility of the petition as set out by section 21 (2) of the Power of Mercy Act, the Committee may consider:

- a) whether, the convicted criminal prisoner has served at least one third of the sentence pronounced by a court (For determinate sentences)
- b) Where a person who is convicted and sentenced to imprisonment for life or to death and whose sentence has not been affected, has served for at least five years.
- c) Any other relief that the committee may consider necessary.

### Commencing a Petition

The benefits conferred by Article 133 are available to any person convicted of an offence.

The process of application for the exercise of power of mercy shall be by a petition in the prescribed form and meeting the guidelines and criteria prescribed in the form. The petition can be filled electronically through the Electronic Petitions Management Information System (ePMIS) portal accessible via [epmis.powerofmercy.go.ke](http://epmis.powerofmercy.go.ke). or by filling the downloadable form which is available at the Power of Mercy Advisory Committee's website [www.powerofmercy.go.ke](http://www.powerofmercy.go.ke) or ePMIS portal.

The petition can be done by the convicted offender, a pardon officer, an advocate, or any other person on behalf of the convicted offender. 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.

Below is an analysis of petitions received grouped according to:

- a) The nature of the offence committed; and
- b) The sentence the petitioner is serving.

**Table 1: Comparison of number of petitions received categorized by sentence the convicted offender (petitioner) is serving in the fiscal years 2019/2020, 2020/2021 and 2021/2022**

S/No	Sentence	FY 2019/2020	FY 2020/2021	FY 2021/2022
1.	Death	15	2	2
2.	Life	3	18	8
3.	Determinate	100	40	25
4.	President's Pleasure	86	-	0
5.	Not indicated in the petition form	2	1	2
	TOTAL	206	62	37

The Supreme Court of Kenya in its ruling in petition No. 15 of 2015; *Francis Karioko Muruatetu & Another and the Republic*, ordered inter alia, for all cases where the mandatory death sentence had been imposed to be re-heard on sentencing. Consequently, a significant number of long serving convicts opted to seek for review of the initial sentence. Subsequently, there has been a steady decline in the number of petitions received in this FY 2021/2022 from that of the last two consecutive years.

**Table 2: Number of petitions received during the period 2021/2022 categorized by offence committed**

S/NO	Offence	No. of Petitioners
1.	Sexual offences	20
2.	Murder	5
3.	Robbery with violence	4
4.	Attempted murder	2
5.	Grievous harm	2
6.	Manslaughter	1
7.	Assault	1
8.	Breaking and stealing	1
9.	Trafficking/Possession of narcotic drugs	1
	Total	37

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

Upon receipt of the petition the Committee determines the eligibility and admissibility of the Petition. Where a petition does not pass the eligibility test, the petitioner is notified of the reasons.

Currently, there are 1,847 active petitions in the Power of Mercy Advisory Committee's registry/ePMIS. During the Financial Year (FY), the Committee received a total of thirty-seven (37) petitions from convicted offenders across correctional facilities in the Country. The Committee processed the petitions in the database alongside the new petitions received during the period 2021/2022.

The Committee has developed admissibility form which is used to determine admissibility in view of the set criteria after an evaluation of submitted petition documents. Where a petition is inadmissible, the petitioner is duly notified with the reasons thereof.

Consequently, the admissible petitions undergo the following stages:

### **1. Investigation Stage**

Once a petition is deemed eligible and admissible, a petition file shall be opened with a unique petition number. The petitioner will be notified of the number so that in the event that he/she wishes to make any enquiry it is the reference quoted. The Committee has powers as per section 21(1) (b) to call for further evidence which will may include:

- a) **Prison Report:** - This report assists the Committee to understand post-conviction conduct, character and reputation of the convicted criminal offender. It is a comprehensive report giving a holistic view of the prisoner including, personal information, family history, details of the offence committed, rehabilitation history, prisoners' medical and physical report and the Officer's in Charge remarks.
- b) **Probation Officer's Report:** - It is a social enquiry report of the convicted criminal offender. It provides information such as the family background of the offender, social history including religion and education status, offenders' criminal history, the victim's views, the attitude of the offender's family towards possible release, state and community interest and the reintegration plan among other factors.
- c) **Court Documents:** - Judiciary provides court records that are vital in the process of consideration for mercy. Such record includes court proceedings and judgment, documents related to appeal and any other record generated from the courts.
- d) **Medical Report:** - The Committee is mandated by section 22(1) (g) of the Act to consider personal circumstances of the offender at the time of making petition, including mental and physical health and any other disabilities. This report should be filed by a competent medical practitioner.
- e) **Security Appraisal report**  
Key security agencies vet all petitioners being considered for mercy to protect the interests of the community and the State and submits its reports to the Committee.

- f) **Petition Summary:** After receiving all the documents, a petition summary which includes the Petitioner's Bio-Data, the type and circumstances of the offence, petition overview with emphasis on post-conviction conduct and views from other relevant agencies, is made for presentation to the Committee

## **2. Paper Hearing Stage**

Complete petition files having all the necessary documents up to petition summary is then presented to the Committee for members' hearings and deliberations. The Committee at this stage makes use of the Hearing Form as the tool to record observations regarding the parameters of assessment for possible recommendation of mercy.

At this stage, the petition may either be recommended for further consideration, therefore listed for interview, or not recommended with reasons or be deferred to a later date. When the Committee recommends the petition for interview, the interview date and venue is set.

During the period under review 143 petitions were procedurally reviewed by the committee out of which 135 petitions were recommended for interview and further consideration while 8 petitions were deferred to a later date with conditions.

## **3. Interview stage**

All the petitions that are recommended for interview are presented before the Committee at this stage where the Committee members interrogate the petitioner with the objective of not only getting his/ her side of the story but also observing the demeanor of the petitioner. The assessment of whether one is truly remorseful for the crime committed, has fully reformed, genuinely wishes to be pardoned, has atoned for the offence and is less likely to recidivate is more possible at this stage. If the basis of the petition was ill health for instance, the Committee will interrogate the documents and make an assessment of the petitioner relying on the medical professional in the membership. The observations at this stage will be recorded in the tool referred as interview summary form.

During the period under review physical visits to prisons were suspended due to the effects of the Covid-19 pandemic. Consequently, the Committee conducted virtual hearings and interviews with 119 petitioners held in 34 correctional facilities, where 101 petitioners were recommended for security appraisal and further consideration while 18 were deferred to a later date with conditions. The virtual interviews sessions are as illustrated in the sample pictorial below:

Below are pictures displaying virtual interviews in session conducted by the Committee.

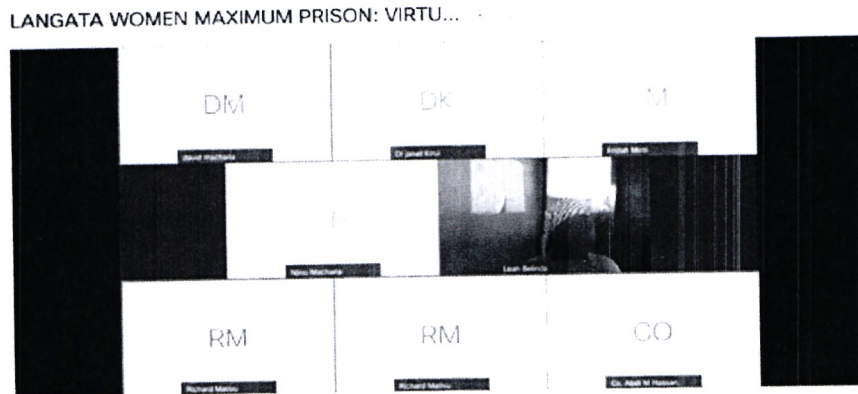


Figure 1: Langata Women Maximum Prison Virtual Petition Hearings

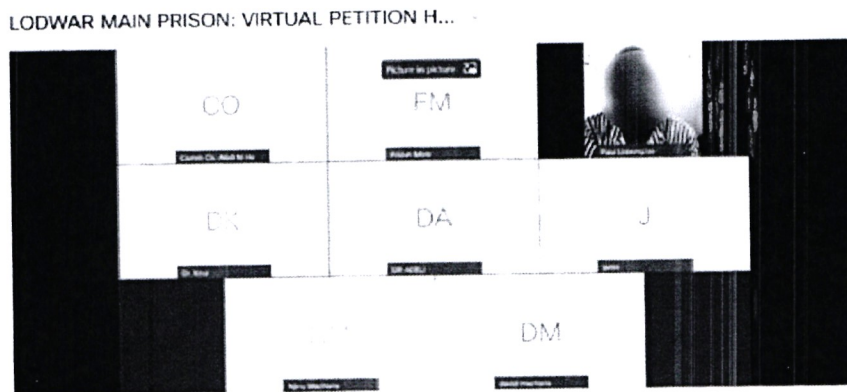


Figure 2: Lodwar Main Prison Virtual Petition Hearings

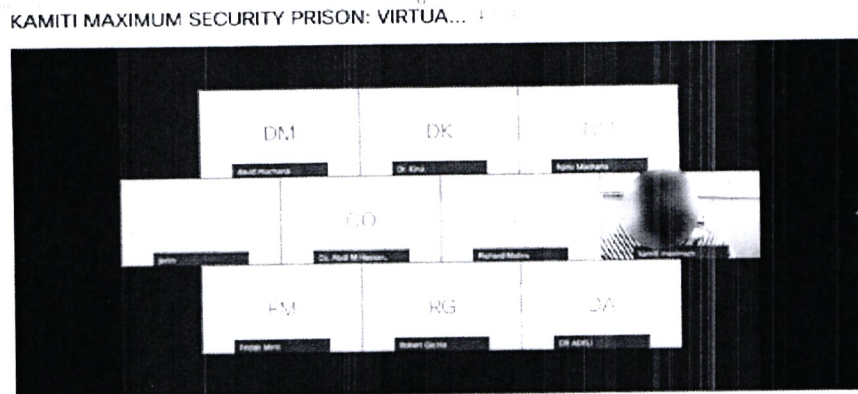


Figure 3: Kamiti Maximum Security Prison Virtual Petition Hearings

#### **4. Notification of victims**

Where the relief sought relates to a conviction for a felony or misdemeanor 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 a representation at the interview stage.

#### **5. 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.

Where a petition is deferred or not recommended for one or other reason, the petitioner is duly notified of the decision of the Committee.

#### **6. Notification of grant or Denial of Petition**

- The President shall, within sixty days of receipt of the recommendations by the committee, consider the recommendations and either approve or reject the petition.
- Where the president approves or rejects a recommendation by the Committee, the Committee shall in writing notify the petitioner or their representative of the President's Decision within Seven Days.
- The Pardon Warrant will be prepared for all the approved petitions and be transmitted to the Commissioner General of Prisons to facilitate release of the petitioner. The approved petitions will be published in the Kenya Gazette within twenty-one days of the receipt of the President's Decision.

- The decision of the President for each Petition made shall be final.


#### **7. Re-petition**

- A person may after the rejection of a petition, re-petition only once and on new grounds, to the President through the Committee;
- The Committee shall consider a request for re-petition and where it is satisfied that the request raises reasonable facts, inform the petitioner of the outcome and require the petitioner to file the petition in a prescribed manner; and
- The procedure for the petition process shall then apply to a re-petition.

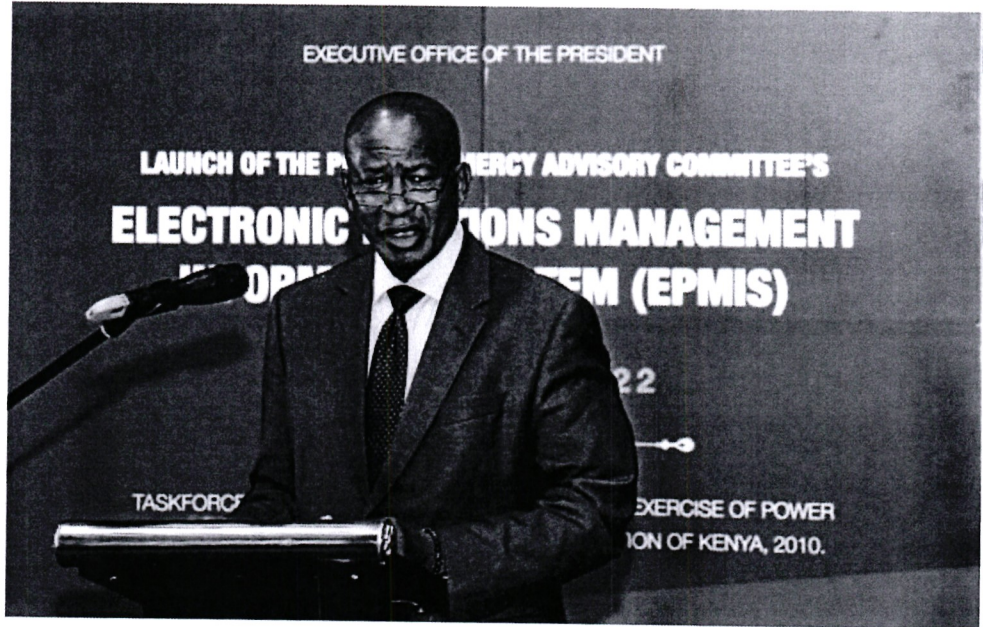
### **DIGITIZATION OF THE PETITIONS MANAGEMENT PROCESS**

Migration from the manual database to the Electronic Petitions Management Information System (ePMIS)

The Taskforce on Review of Laws Relating to the Exercise of the Power of Mercy under Article 133 of the Constitution of Kenya held its stakeholders and public participation forums in 24 Counties between March and May 2021. Among the stakeholder's views was the adoption of modern technological systems and practices by the Power of Mercy Advisory Committee, as a means to enhance transparency, accountability, participation, and collaboration in the petitions process. The Committee in acknowledgment of the said recommendations developed an electronic Petition Management Information System (ePMIS) in collaboration with the ICT Authority that is intended to automate the entire petition process. The system was launched by Hon Attorney General on 13th March 2022 at the Kenyatta International Convention Centre.



The Electronic Petitions Management Information System (ePMIS) portal is accessible to all stakeholders and members of the public through the link;  
[epmis.powerofmercy.go.ke](http://epmis.powerofmercy.go.ke)



*Chair of the Power of Mercy Advisory Committee Hon. Attorney General Paul K. Kariuki, giving his remarks during launch of the Electronic Petitions Management Information System (ePMIS).*



*The Power of Mercy Advisory Committee members and the ICT Authority staff during the launch of the Electronic Petitions Management Information System (ePMIS).*

The electronic Petitions Management process involves the steps shown in table 1

**Electronic Petition process explained: -**

STEPS	ACTIVITY	RESPONSIBILITY	EXPECTED OUTPUT
1.	Registration for an ePMIS Account.	Petitioner, Petitioner through Pardon Officer or a representative	System Access Credentials.
2.	Making a petition application by login to the system and filling in the petition form or downloading the public petition form, filling the form and uploading it to the system.	Petitioner, Petitioner through Pardon Officer or a representative	Completed petition form.
3.	POMAC acknowledges the petition application	POMAC Desk Officer	Petition Acknowledgement
4.	Secretariat performs admissibility test	POMAC Desk Officer	Completed admissibility checks
5.	Petition number is generated.	EPIMS	Petition file opened and Number generated
6.	Petitions forwarded to the CEO for approval.	Secretary/CEO	Approved Petitions.
7.	Reports requested from various stakeholders (Prisons, Probation Officers, Judiciary, victims report)	Secretary/CEO	Stakeholder Reports Requests.
8.	Update of petitioner information based on Stakeholder reports.	Secretariat	Updated Petition
9.	Petition summary prepared automatically by the system	Secretariat	Petition Summary
10.	Petition Summary Submitted to Secretary/CEO for approval or with notification to request for missing information from relevant agency/ stakeholder(s)	Secretary/CEO	Approved Petitions/ Stakeholder request for additional information
11.	Approved petitions are forwarded the Committee	Secretary/CEO	Notice of approved Petitions
12.	Meeting for the Committee scheduled, reports generated and pushed to the members dashboard	Secretary/CEO	Meeting notification

STEPS	ACTIVITY	RESPONSIBILITY	EXPECTED OUTPUT
13.	The committee members conduct online examination/petition hearings. Petitions that pass the hearings process proceeds to the interview stage.	Members	Committee Members recommendations.
14.	The Committee interviews each petitioner, updates their individual observations and makes recommendations in the system	Members	Committee Members recommendation
15.	Request & receive security appraisal reports	CEO/Secretary	Appraisal reports
16.	Full committee meets to make final recommendation on petitions.	Committee	Meeting recommendations
17.	Final Consideration by H.E. the President	Secretariat	Legal instruments/ Notices
18.	Implementation of final recommendation	Secretariat	Implement final recommendation.
19.	Pardoned convict post release assessment	Probation and Aftercare Services	Probation officer's report

*Table 1: Petition process table*

The ePMIS process is further illustrated in the flow chart below.

A detailed flow chart of the Electronic Petitions Management Information System (ePMIS)

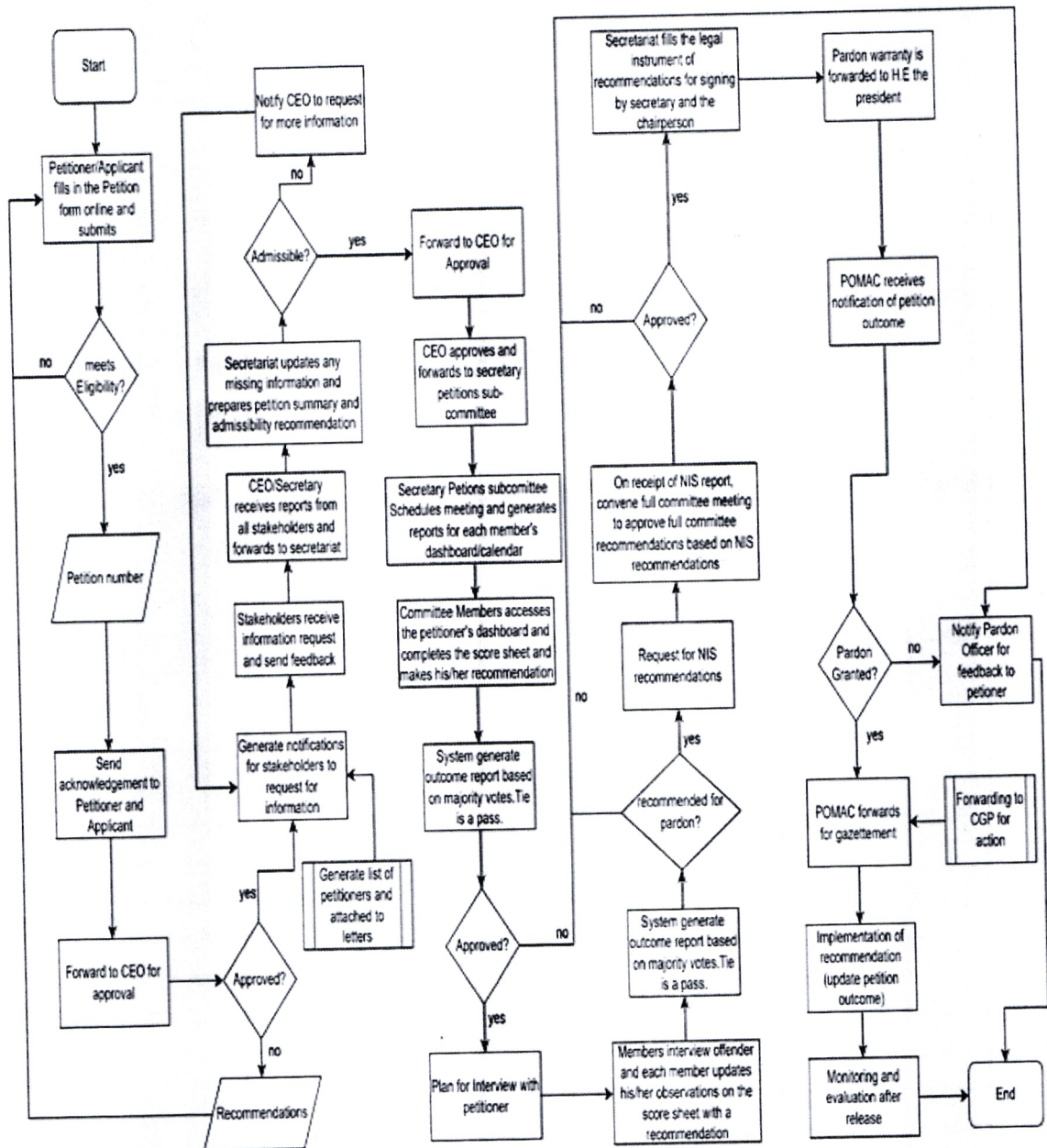


Figure 6: Detailed flow chart of the Electronic Petitions Management Process

The POMAC manual database had a total of 2,638 petitions where 791 petitions were closed after offenders exited prison remaining with 1,847 active petitions that were migrated to ePMIS.

The active petitions were at various stages of petitions processing as illustrated in the table below:

**Summary of update of manual petitions database as at 10th January, 2022**

S/No.	Category	Total	Recommendation
1.	Petitioners interviewed by the committee and recommended for further processing	317	Migrate to Electronic Petitions Management Information System
2.	Petitions with all requisite documents and reports awaiting reviewing by the Committee	130	Migrate to Electronic Petitions Management Information System
3.	Paper hearings conducted awaiting scheduling of interviews	70	Migrate to Electronic Petitions Management Information System
4.	Petitions deferred during hearing stage awaiting fulfilment of the set conditions	107	Migrate to Electronic Petitions Management Information System
5.	Petitions that need further documents and reports	858	Migrate to Electronic Petitions Management Information System
6.	Petitions with pending judicial application(s)	365	Migrate to Electronic Petitions Management Information System
<b>TOTAL ACTIVE PETITIONS</b>		<b>1847</b>	
7.	Released	765	Close the files
8.	Deceased	18	Close the files
9.	Escaped from Prison	1	Close the files
10.	Double entry	7	Merge the files
<b>TOTAL INACTIVE PETITIONS</b>		<b>791</b>	
<b>GRAND TOTAL</b>		<b>2,638</b>	



The team tasked to migrate manual filing database to the ePMIS digital platform.

**Analysis by Gender**

The system analyzed the 1,847 active petitions by gender where 89 petitions were from female inmates as compared to 1,758 petitions from male convicts as illustrated in the Figure below.

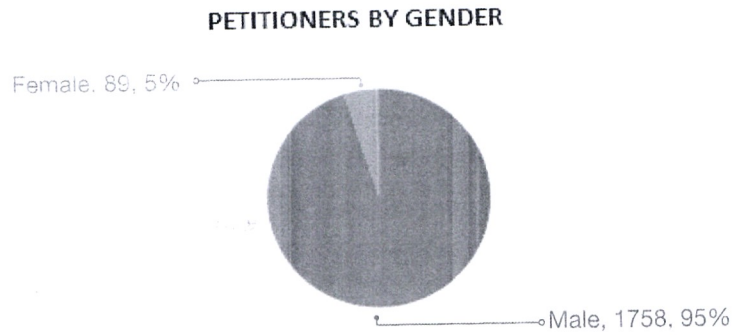


Figure 7 Petitions processed by gender

**Analysis by Sentence.**

From the petitions process, 1,457 petitions accounting for 79% were those serving indefinite sentences, that is, inmates serving Life, Death or held under President's Pleasure (PP), whereas 390 petitions at 21% were by inmates serving definite sentences as shown in the Figure below.

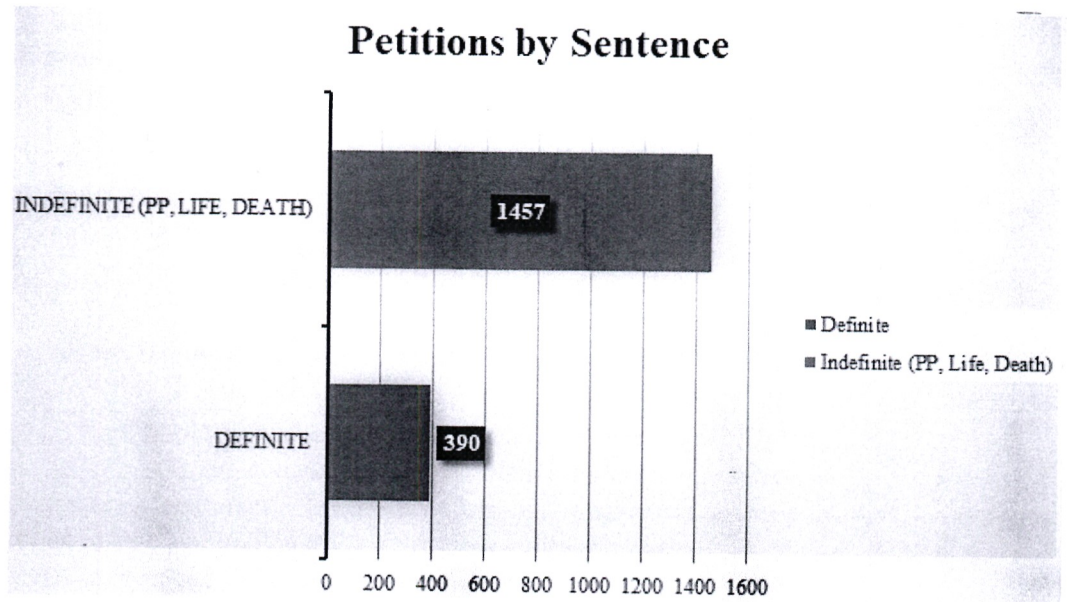


Figure 8 Petitions processed by sentence type

#### Analysis by Age

Most of the petitioners were between the ages of 36 and 46 as shown in Figure 6 below.

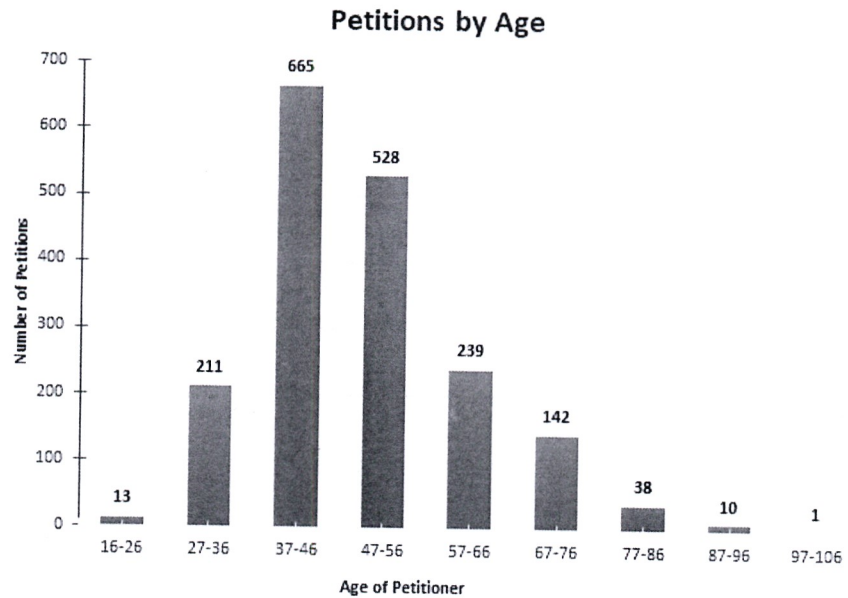


Figure 9 Petitions processed by age group

## **Africa Public Service Day National Celebrations**

The Power of Mercy Advisory Committee (POMAC) Participated in this year's Africa Public Service Day (APSD) national celebration, at an exhibition held at the KICC, Tsavo Ballroom on the 21st to 23rd June, 2022.

POMAC was demonstrating the newly launched Electronic Petitions Management Information System (ePMIS), an online platform that is meant to reengineer the petitions process by greatly improving on accessibility, convenience as well as availability of a feedback mechanism where a petitioner is able to track progress of their petition.

APSD is an African Union calendar event celebrated annually to reflect on the efficiency of public service delivery and also to take cognizance of the achievements made in public service transformation. This year's theme was, "Celebrating Public Transformation: Ten Year Journey and Beyond."

The activity was a 3-day event that brought together Ministries, Departments and Agencies (MDAs) and County Governments, who showcased outstanding innovations that have transformed public service delivery. In his keynote address, the Head of Public Service Dr. Joseph Kinyua, acknowledged government's effort in creating an inclusive environment for the youth who are more tech savvy to enable an innovative public service delivery. "As we balance between a sophisticated young citizenry and limited resources, it is of fundamental importance that the public servant is innovative, prudent and resourceful to ensure we meet the expectations," he said.



*The Head of Public Service, Dr. Joseph Kinyua (right) accompanied by the PAS Cabinet Affairs Office Dr. Kennedy Kihara, visiting POMAC stand during Africa Public Service Day Exhibition. Looking on is CS Public Service Prof. Margaret Kobia.*

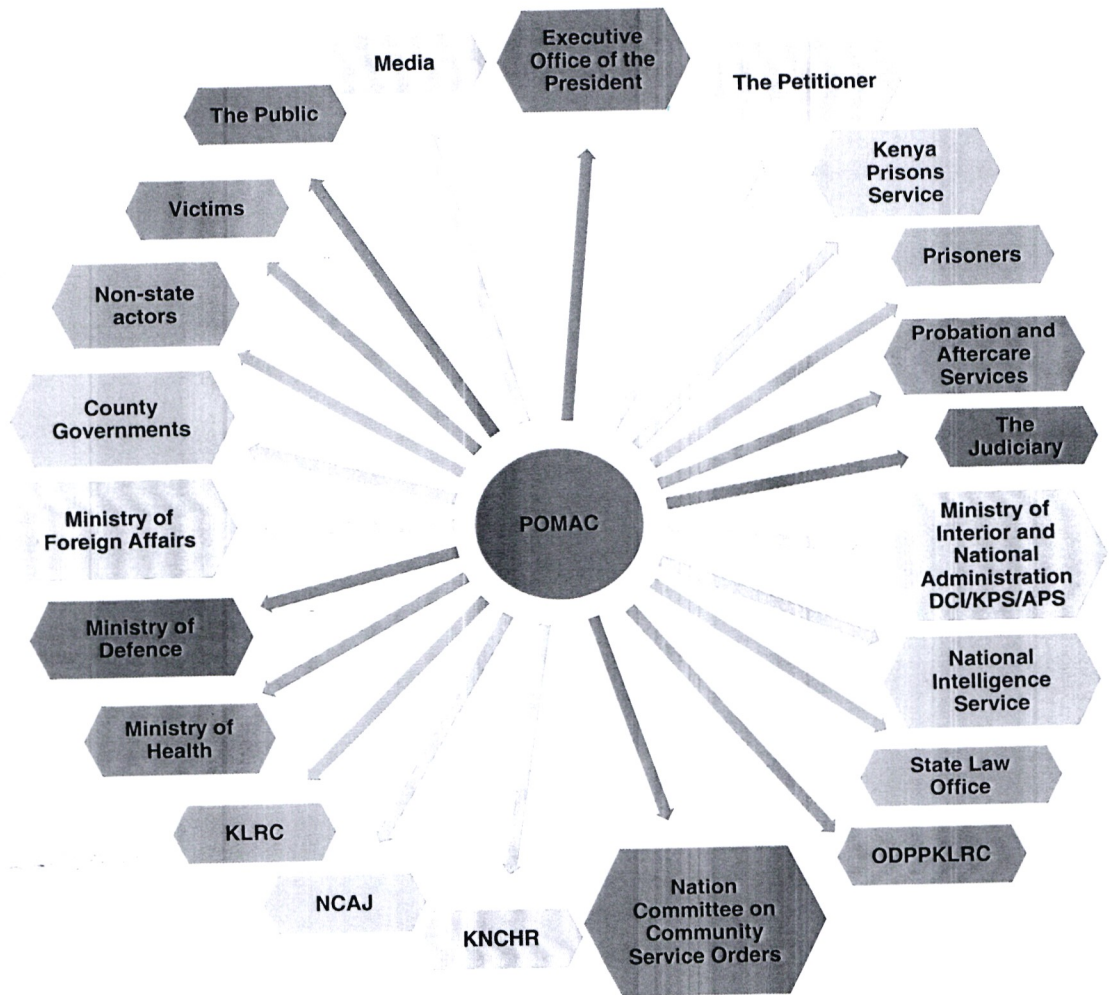
## **STAKEHOLDER PARTNERSHIPS AND COLLABORATIONS**

Section 14 (b) and (d) of the Power of Mercy Act, 2011 provide that the Committee shall undertake its mandate in collaboration with State and Non-State actors. The Committee actively collaborates with key stakeholders to enhance knowledge sharing and to improve service delivery.

Among the key stakeholders who work closely with the Committee include: Kenya Prisons Service; Probation & After Care Service; Kenya Police Service; the National Crime Research Center (NCRC) and the Information, Communication & Technology Authority (ICTA).

During the report period, the Power of Mercy Advisory Committee was Co-opted as a Member of the National Council on Administration of Justice (NCAJ).

The key stakeholders;



**Table 5: POMAC's key stakeholders, their mandate and linkage**

S/No.	Stakeholder	Mandate	Linkage
1.	Executive Office of the President	<ul style="list-style-type: none"> <li>• Organization and coordination of Government business.</li> <li>• Ensures the president achieves his objectives related to the power of mercy</li> <li>• Offers technical leadership role and mandate in policy formulation</li> </ul>	<ul style="list-style-type: none"> <li>• Appoints members of the Power of Mercy Advisory Committee after recommendation by the selection panel</li> <li>• Considers recommendation of the Committee in regard to exercise of power of mercy</li> </ul>
2.	Kenya Prisons Service	<ul style="list-style-type: none"> <li>• It contributes to public safety and security by ensuring there is safe custody of all persons who are lawfully committed to prison facilities, as well as facilitating the rehabilitation of custodial sentenced offenders for community reintegration</li> </ul>	<ul style="list-style-type: none"> <li>• Custodian of POMAC's clients</li> <li>• Pardon officers are also prison officers</li> <li>• Pardon officers report to the Committee through the Officer in Charge</li> <li>• Assists inmates in the preparation of Petitions for power of mercy</li> <li>• Ensures accurate compilation of prison reports which are filed with POMAC</li> <li>• Makes necessary preparations for POMAC's interviews within the institutions.</li> <li>• Through the Pardon officers, the Service ensures that Petition registers are well maintained</li> </ul>

S/No.	Stakeholder	Mandate	Linkage
3.	Probation & Aftercare Service (PACS)	<ul style="list-style-type: none"> <li>• It is involved in the administration of criminal justice with the responsibility of the management of community corrections.</li> <li>• Generates social information on offenders to courts and other government penal organs, implementation of supervised non-custodial court orders as well as the rehabilitation, reintegration, and resettlement of post-penal offenders</li> </ul>	<ul style="list-style-type: none"> <li>• Provides reports on the petitioners who have petitioned for clemency.</li> <li>• Facilitates reintegration and resettlement of pardoned offenders in the community.</li> <li>• Provide aftercare service for offenders who have been granted mercy</li> <li>• Prepares periodic reports on the progress of pardoned offenders</li> </ul>
4.	National Police Service	<ul style="list-style-type: none"> <li>• Its core mandate: maintenance of law and order, preservation of peace, protection of life and property, prevention and detection of crime, apprehension of offenders and enforcement of all laws and regulations with which it has been charged.</li> </ul>	<ul style="list-style-type: none"> <li>• On 21st January, 2020, the POMAC Committee co-opted the Director, Directorate of Criminal Investigations (DCI) into the Committee</li> <li>• The DCI vets' offenders who are being considered for pardon by reviewing and submitting to the Committee criminal records of each of the petitioners considered for clemency.</li> </ul>

S/No.	Stakeholder	Mandate	Linkage
5.	Office of Director of Public Prosecutions (ODPP)	<ul style="list-style-type: none"> <li>• Institutes and undertakes criminal proceedings against any person before any court (other than a court martial) in respect to any offence alleged to have been committed.</li> <li>• To undertake public prosecution of cases forwarded by all investigation agencies</li> <li>• To represent the State in all criminal cases</li> <li>• To advise Government Ministries, Departments and State Corporations on matters pertaining to the application of criminal law.</li> </ul>	POMAC has collaborated with the ODPP in creating synergies through stakeholders' engagement forums.
6.	Judiciary	The Judiciary is mandated to dispense justice in line with the Constitution and other laws, and is expected to resolve disputes in a just manner with a view to protecting the rights and liberties of all.	Provides court records that are vital in the process of consideration for pardon. Such record includes court proceedings, judgment and notice of appeal where applicable.
7.	Kenya National Commission on Human Rights (KNCHR)	<ul style="list-style-type: none"> <li>• Promotes respect for human rights and develop a culture of human rights in the Republic</li> <li>• Act as the principal organ of the State in ensuring compliance with obligations under international and regional treaties and conventions relating to human rights</li> </ul>	<ul style="list-style-type: none"> <li>• The KNCHR has a role of reviewing the Committee and stakeholder practices to ensure that the rights of petitioners are upheld and the practices are in compliance with human rights provisions.</li> <li>• KNHCR is a member of the selection panel under the Power of Mercy Act</li> </ul>

S/No.	Stakeholder	Mandate	Linkage
8.	National Council of Administration of Justice (NCAJ)	<ul style="list-style-type: none"> <li>• Formulate policies relating to the administration of justice</li> <li>• Implement, monitor, evaluate and review strategies for the administration of justice</li> <li>• Facilitate the establishment of court user committees.</li> <li>• Mobilize resources for purposes of the efficient administration of justice</li> <li>• Oversees the operations of any other body engaged in administration of justice.</li> </ul>	
9.	Kenya Law Reform Commission (KLRC)	<ul style="list-style-type: none"> <li>• Undertakes review of the laws in the republic.</li> <li>• Ensures that the laws conform to the spirit of the constitution</li> </ul>	The Committee partners with the Kenya Law Reform Commission to strengthen its legal framework
10.	Ministry of Health	<ul style="list-style-type: none"> <li>• It provides rehabilitation and treatment to all mentally ill offenders who are held under presidential pleasure</li> <li>• Provision of medical reports to government agencies for purpose of administration of justice</li> </ul>	<ul style="list-style-type: none"> <li>• Through the Medical Superintendent at Mathari Referral hospital, they collaborate with Probation department in assisting mental offenders petition for mercy.</li> <li>• Provides progress and psychiatric assessment reports for mentally ill offenders who are under consideration by the Committee.</li> <li>• The Ministry further provides on-going care and treatment to pardoned offenders as may be required.</li> </ul>

S/No.	Stakeholder	Mandate	Linkage
11.	Ministry of Defence	To defend and to protect the sovereignty and territorial integrity of the republic, assist and cooperate with other authorities in situations of emergency or disaster and restore peace in any part of Kenya affected by unrest or instability as assigned	Kenya Defence Forces through the Ministry of Defense aids in processing of petitioners who were initially tried and convicted through the court martial.
12.	Ministry of Interior and National Administration - National Government Administrative Office (NGAO)	To create an enabling environment for Kenya's growth and prosperity through provision of security and safety to the people and property	<ul style="list-style-type: none"> <li>• Provision of key information to POMAC mainly through the local administrators</li> <li>• Through public barazas undertake community sensitization, education and community acceptance of offenders who have been granted pardon.</li> <li>• Assists and ensures smooth re-integration, family re-unification and social re-adjustment of pardoned offenders</li> <li>• Monitors the resettlement of pardoned offenders in their localities, provide periodic feedback and challenges with a view to guaranteeing public protection.</li> </ul>
13.	National Intelligence Service (NIS)	<ul style="list-style-type: none"> <li>• NIS is charged with the responsibility of enhancing national security by providing security intelligence and counter intelligence for all government Ministries, Departments and Agencies (MDAs).</li> <li>• Gather, evaluate and transmit departmental intelligence at the request of any State department or organ, agency or public entity</li> </ul>	The National Intelligence Service vets all petitioners being considered for mercy to protect the interests of the State.

14.	Ministry of Foreign Affairs	<ul style="list-style-type: none"> <li>• Undertake to provide a confidential security report as may be required under any written law;</li> </ul>	
		To project, promote and protect Kenya's interests and image globally through innovative diplomacy, and contribute towards a just, peaceful and equitable world.	Assist in mutual transfer of offenders.
15.	Non-State Actors	Established for the benefit of public at large and for promotion of social welfare, development, charity or research in education and supply of amenities and services.	The Committee similarly partners with non-state actors that have established linkages with correctional services in Kenya. These include among others; religious organizations, community-based organizations and non-government organizations. Such organizations work on various programs including offender rehabilitation, offender resettlement and re-integration, human rights, capacity building and training.
16.	County Government /Council of Governors	<ul style="list-style-type: none"> <li>• The committee partners with county government through the Council of Governors.</li> <li>• The mandate of the Council of Governors includes; offering a collective voice on policy issues, initiating preventive or corrective action, facilitating capacity building for governors and receiving reports among others. The Committee engages county governments to provide support for the re-integration and resettlement of pardoned offenders.</li> </ul>	The Committee engages county governments to provide support for the resettlement and re-integration and resettlement of pardoned offenders.

S/No.	Stakeholder	Mandate	Linkage
17.	Media	<ul style="list-style-type: none"> <li>• Disseminates public information</li> <li>• Creates public awareness</li> <li>• Enhances accountability</li> </ul>	The Media acts as an important intermediary between the Committee and the public by way of disseminating information on the petition processes and work of the Committee.
18.	The National Committee on Community Service Orders (NCCSO)	The Committee is responsible for providing policy guidance on the implementation of Community Service Orders in Kenya.	POMAC has collaborated with the NCCSO in creating synergies through stakeholders' engagement forums.
19	National Crime Research Centre (NCRC)	They are mandated to carry out research into the causes of crime, its prevention and to disseminate the research findings and recommendations to Government Agencies concerned with the administration of criminal justice.	The Committee partners with the National Crime Research Center to conduct relevant research.
20.	General Public	The citizens of Kenya who are key stakeholders in the mercy process.	They are key in the mercy process and the Committee partners with them to provide relevant information through public forums and interaction with government officers during sensitization sessions and social enquiries.

## Stakeholder Engagements

### Strategic Meeting with the DCI

The Committee held a meeting with the Director of Criminal Investigations, Mr. George Kinoti on Wednesday 6th October, 2022. The objective of the meeting was to strengthen partnerships between the Committee and the Directorate of Criminal Investigations. DCI conduct a crucial role of security vetting on all petitioners.

Mr. Kinoti acknowledged the Committee's critical role in the pardon process and appreciated his co-option as a member. The Director similarly noted the importance of security screening of all petitioners seeking clemency, referred to them by the Committee. POMAC Vice Chair Dr. Janet Kirui, gave a brief overview of the Power of Mercy jurisdiction pursuant to the Constitution and Power of Mercy Act, 2011.

The Director of Criminal Investigations observed that the Committee has discretions to formulate criteria to guide its advisory to H.E the President but must also be consistent and place the interest of the nation at the core.



*The Power of Mercy Advisory Committee Members led by the Vice-Chair Dr. Janet Kirui with Director DCI Mr. George Kinoti at the DCI Headquarters.*

During the courtesy visit the following strategic areas were agreed as the way forward:

- 1) That Directorate of Criminal Investigations and the Committee shall put mechanism to strengthen close working collaborations to address any risk in the petition process. Toward this effort, it was appreciated that the Director of Criminal Investigations is currently co-opted as a member of the Committee.
- 2) The Committee shall strictly comply with the provisions of Sections 22 of the Power of Mercy Act, 2011 and in particular Section 22(1)(b) as guiding principle in the determination of its advisory to H.E the President.
- 3) The Committee is mandated under the provisions of Article 133 of the Constitution and the Power of Mercy Act, 2011 to consider any petition by any person and for any offence to H. E the President for mercy.
- 4) The Directorate of Criminal Investigations is merely a custodian of Criminal record meant for reference by any State agency which make reference for such record. The Directorate shall work closely with the Committee to facilitate processing of the Petitions to ensure only deserving petitioners are considered.
- 5) The Director of Criminal Investigations and the Secretary to the Committee are members of the Taskforce on the Review of Laws Related with the Exercise of the power of mercy. It was agreed that this shall provide an opportunity to facilitate legal frame work to formalize working relationship.
- 6) The Directorate of Criminal Investigations and the Committee will continuously explore areas of cooperation and continue supporting the processes of each other to guarantee credibility of the petition processes.
- 7) The Directorate of Criminal Investigations and the Committee shall plan routine meetings in furtherance of the cooperation and partnership already established.

## **Meeting with the Principal Secretary, State Department for Correctional Services**

The Committee met the Principal Secretary, State Department for Correctional Services, Ms. Safina Kwekwe on Friday 21st January, 2022. Objective of the meeting was to strengthen collaboration with the State Department for Correctional Services to secure seamless petition consideration process.

The main areas of discussion included:

- a) **Nexus between POMAC and the State Department of Correctional Services.** POMAC and the department of Correctional Services had a shared purpose on areas of mutual interest which include among others; representation in the Power of mercy Advisory Committee by the Cabinet Secretary in charge of Correctional Services, who is a member pursuant to Article 133 of the Constitution. The Petition Process being contingent on the reports generated by the Kenya Prisons Service and Probation and Aftercare department and Kenya Prisons Service being the custodian of POMAC clients who are convicted criminal offenders. Probation and Aftercare supervises and facilitates the reintegration and rehabilitation of the pardoned ex-convicts.
- b) **The Task force on review of the laws relating to the exercise of the Power of Mercy under Article 133 of the Constitution of Kenya, 2010.** The meeting was informed that a Taskforce was established by Hon. Attorney General vide Gazette Notice No. 7382 of 25th September, 2020 and Gazette Notice No. 10186 of 30th November, 2020. The Taskforce was mandated to un-pack the critical elements of the four different avenues of relief in Article 133(1) and to make provisions for their operationalization. The Taskforce made several recommendations that touched on pardon, parole, commutation and remission, mentally ill offenders, non-citizen offenders and Kenyan offenders in foreign jurisdictions, resettlement and reintegration of offenders released from prisons.
- c) **Pardon Officers.** Pardon officers are serving prison officers. They are POMAC's agent in the petition process at prison level. The Committee has held consultative seminars with pardon officers from Maximum Prisons at the Prisons Staff Training College, Ruiru on 9th to 10th September, 2019 and 12th to 14th October, 2020 where the following resolutions among others were made: The Pardon officers would continually update the committee on emerging issues regarding the petitioners and attach supplementary documentation alongside the new petition form. The Commissioner

General of Prisons (CGP) would fast track reinstatement of CRO 9 form and facilitate the transfer of Pardon officers on exchange basis. POMAC would organize continuous trainings of Pardon officers and that pardon Officers shall communicate to POMAC through the Officers in Charge and such correspondences to be copied to the Commissioner General of Prisons.

d) **The prison-based petitions Sub-Committees.** The Commissioner General of Prisons vide their letter Ref: D/4/VOL. III/201 dated 9th March, 2021 authorized the constitution of the said sub-Committee that comprises of the chairperson being Officer in Charge, Secretary being Pardon Officer and members who include welfare officer, spiritual leader, technical officer, security/duty officer, documentation officer, principal disciplinary officer and medical officer.

e) **Electronic petitions management information system/update of petitioner's information**

The Power of mercy Advisory Committee in collaboration with ICTA had developed an Online Petition Management System intended to automate the entire process. The system under development would be tested and certified as meeting the user requirements. The system was being integrated with electronic databases of other agencies for ease of data retrieval, communication and reporting. It was expected that the official launch would be done by the end of third quarter.



*The Power of Mercy Advisory Committee members with Ms. Safina Kwekwe, Principal Secretary State Department for Correctional Services.*

During the deliberations, the following matters were raised by the Committee for consideration by the Principal Secretary:

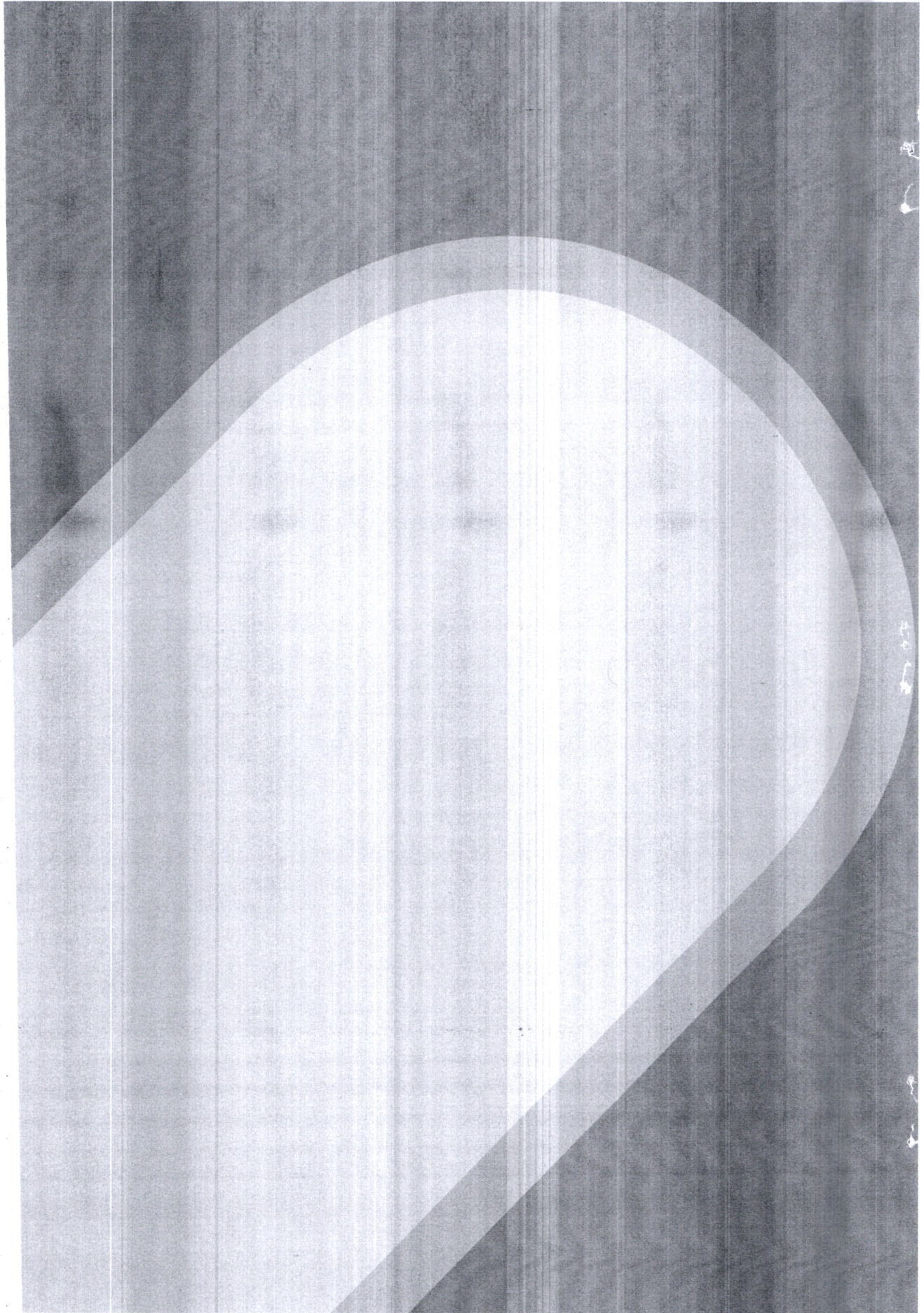
- i. Transfer of Pardon Officers to be done on exchange basis
- ii. Partnership in continued education and sensitization on power of mercy to inmates and staff in correctional services.
- iii. Savings arising from decongestion of prisons through conditional pardons to be ploughed back for empowerment of pardoned ex-offenders and other reformed released inmates.
- iv. Reinstatement of prisoners earning scheme as a rehabilitation tool to reduce recidivism.
- v. Need to have elaborate plan for handling of juvenile offenders in prisons which is a time bomb in the Country.
- vi. Request for promotion of the four (4) documentation officers seconded to the Power of Mercy.

The Principal Secretary welcomed the timely meeting with the Committee. She also noted that despite the short period she had been in the office, there were critical issues about the inmates and petitioners of mercy that needed to be addressed:

- i. Serious congestion of remandees. It was noted that though remanded offenders are not in the ambit of the Committee, there is need for decongestion through a judicial process.
- ii. The inconsistencies of recommendations by pardon officers and Prisons officials in the official reports to the Power of mercy Advisory Committee.
- iii. Rampant transfer of prisoners from maximum and main prisons to medium prisons thus affecting tracking of proven record of an inmate.
- iv. Recidivism of the pardoned or released ex-offenders.
- v. Radicalization of young offenders to hard core criminals
- vi. Plight of mentally ill offenders especially those who are unable to take plea due to permanent mental disability.



*The Commissioner General of Prisons Brigadier (Rtd) John K. Warioba, (in striped tie) with POMAC CEO Dr. Lydia Muriuki (centre), at the secretariat offices at Kencom House.*



## THE LEGAL REFORMS

The Attorney General vide Gazette Notice No. 7382 of 25th September, 2020 and Gazette Notice No. 10186 of 30th November, 2020, established the Taskforce on the Review of the Laws Relating to the Exercise of the Power of Mercy. The Taskforce term was extended for a further term of one year vide Gazette Notice 9863 of 22nd September, 2021.

The Taskforce is chaired by the Principal Administrative Secretary & Assistant Secretary to the Cabinet and has drawn its membership from the Executive Office of the President, Office of the Attorney General and Department of Justice, Prisons Service, Office of the Director of Public Prosecutions, National Police Service, Probation and Aftercare Service, Victim Protection Agency, Ministry of Health, Kenya National Commission on Human Rights, Kenya Law Reform Commission, National Crime Research Center, Ministry of Defence, Ministry of Foreign Affairs and the Community Service Orders Committee.

In undertaking its mandate, the Taskforce established technical committees to review all the laws related to the exercise of the Power of Mercy as well as holding stakeholder consultation meetings in 23 counties between March and May 2021. These meetings were attended by members of the public and key stakeholders drawn from National and County Government. The Taskforce also received and considered written memoranda presented to it. In addition, the Taskforce engaged legal and policy experts who provided technical input and also undertook research that included a comprehensive review of international good practices.

The engagement culminated in a Draft Policy and Bill which were published in the Committee's website. The taskforce presented its report to the Hon. Attorney general on 16th December, 2021. Thereafter, the draft policy and bill were published in the committee's website and also circulated to key stakeholders in this financial year.



*Hon. Attorney General Paul K. Kariuki (Centre) receives report by taskforce on review of the laws related to article 133 of the constitution from its Chair Dr. Kennedy K. Kihara, PAS Cabinet Affairs Office. Joining them is the CEO POMAC Dr. Lydia Muriuki.*

## **Key Taskforce Recommendations contained in the Draft Policy and Bill**

### **1. Pardon**

The Taskforce recommended that Pardon be redefined as the expunging or sealing of the criminal record of an offender. A Free Pardon within the meaning of Article 133 will result in the expungement of a person's criminal record while Conditional Pardon will be granted in the form of a record suspension.

### **2. Parole**

The Taskforce recommended that there be established a National Parole Board with the mandate to grant, deny or revoke parole. An offender who is on parole will continue serving the sentence in the community under the supervision of a Parole Officer. A breach of the imposed conditions will result in the revocation of parole and the offender may be returned back to prison.

### **3. Substitution of a less severe form of punishment (Commutation)**

The Taskforce recommended that Commutation within the meaning of Article 133 be the replacement of a custodial sentence with a non-custodial sentence, replacement of the form of sentence e.g. from death sentence to life imprisonment

or reduction of prison time and may be granted on compassionate grounds to vulnerable offenders or where the Commissioner General of Prisons recommends substitution of sentences for a group of offenders.

#### **4. Resettlement and Reintegration of Pardoned Offenders**

The Taskforce recommended that a National Aftercare Policy and Bill be developed and implemented by the Correctional Services to support resettlement and reintegration of offenders released from prisons and mental hospitals. The Taskforce also proposed that there be established county based multi-agency committees working under the County Commissioner to support the resettlement and reintegration of pardoned offenders.

#### **5. Non-Citizen Offenders and Kenyan Offenders in Foreign Jurisdictions**

The Taskforce recommended that foreigners serving jail terms in Kenyan prisons be eligible for the reliefs provided under Article 133 on condition that they shall be expatriated upon release. A foreigner expatriated from Kenya will be deemed to be on parole/probation and may be prohibited from returning to Kenya until the probationary period (remainder of their sentence) has lapsed.

#### **6. Mentally ill Offenders**

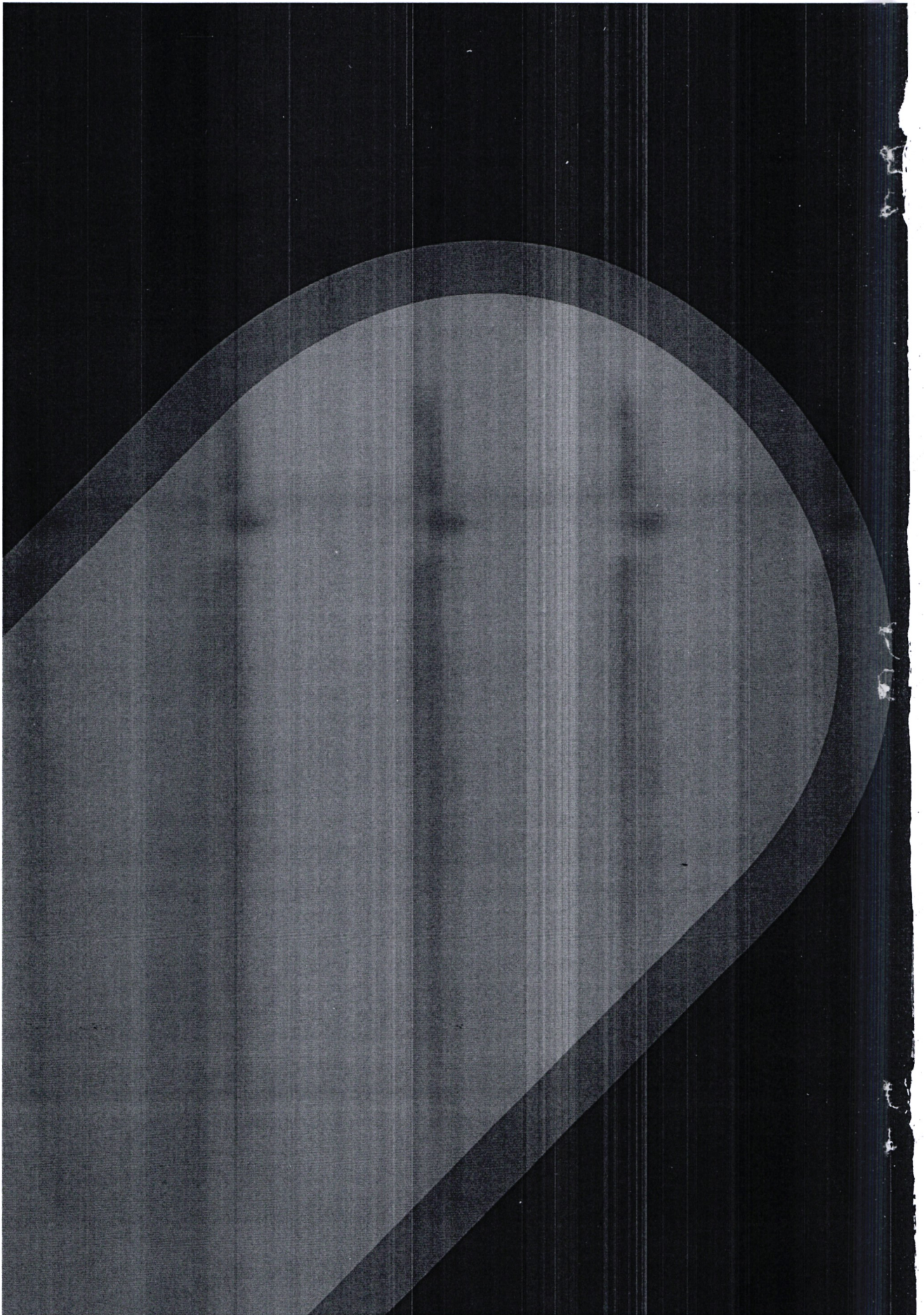
The Taskforce recommended that be there established a Mental Health Review Board. Offenders who have been determined by a court to be of unsound mind, guilty but insane or unable to understand the proceedings against them be referred to the Board for determination of whether and for how long they may be committed to a mental health facility.

#### **7. Remission**

The Taskforce has recommended that the process of granting remissions (remitting of all or part of a punishment) be implemented in accordance with Article 133 of the Constitution.

#### **Stakeholder Validation Exercise**

The Taskforce has been receiving input from the various stakeholders and the general public. The Draft Policy and Bill shall be subjected to stakeholder validation in selected counties during the next financial year 2022/2023.





**THE POWER OF MERCY ADVISORY COMMITTEE**

**REPORTS AND FINANCIAL STATEMENTS  
FOR THE FINANCIAL YEAR ENDED  
JUNE 30, 2022**

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 is to receive petitions from convicted criminal prisoners, consider, review, hear and conduct interviews, investigate, research, collect data, educate and collaborate with other state and non-state organs to ensure His Excellency the President receives timely, objective, independent and accurate advise on the pardon of deserving petitioners in a just, fair and ethical manner

### 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 2018 and who had direct fiduciary responsibility were:

No.	Designation	Name
1.	Secretary/Chief Executive Officer	Dr.Lydia Muriuki



**Dr. Lydia Muriuki, EBS**  
SECRETARY

The Secretary, POMAC has direct fiduciary responsibility for the Power of Mercy Advisory Committee (POMAC). She assumed the position of Secretary in (19<sup>th</sup> April, 2021) 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

#### **(f) Entity Contacts**

Telephone: (254) 2210144  
E-mail: [sec.pomac@kenya.go.ke](mailto:sec.pomac@kenya.go.ke)  
Website: [www.go.ke](http://www.go.ke)

#### **(g) Entity Bankers**

Central Bank of Kenya  
Haile Selassie Avenue  
P.O. Box 60000  
City Square 00200  
Nairobi, Kenya.

#### **(h) Independent Auditors**

Auditor General  
Kenya National Audit Office  
Anniversary Towers, University Way  
P.O. Box 30084  
GOP 00100  
Nairobi, Kenya

#### **(i) 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, 2018. 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, 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, 2022, 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.

Approval of the financial statements

The entity's financial statements were approved and signed by the Accounting Officer on 30th September 2022.

  
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Secretary

  
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AAG


## II. STATEMENT OF RECEIPTS AND PAYMENTS

	Note	2021-2022	2020-2021
		Kshs	Kshs
<b>RECEIPTS</b>			
Exchequer releases	1	106,246,600	39,542,305
<b>TOTAL RECEIPTS</b>			
		106,246,600	39,542,305
<b>PAYMENTS</b>			
Use of goods and services	2	105,893,881	38,934,375
Acquisition of Assets	3	352,719	195,513
<b>TOTAL PAYMENTS</b>			
		106,246,600	39,542,305
<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, 2022 and signed by:



Secretary



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### III. STATEMENT OF CASHFLOW

	Note	2021-2022	2020-2021
		Kshs	Kshs
Receipts for operating income			
Exchequer Releases	1	106,246,600	39,542,305
Payments for operating expenses			
Use of goods and services	2	105,893,881	38,738,891
Adjusted for:			
Adjustments during the year		-	-
Net cash flow from operating activities		352,719	195,513
<b>CASHFLOW FROM INVESTING ACTIVITIES</b>			
Proceeds from Sale of Assets		-	-
Acquisition of Assets	3	352,719	195,513
<b>Net cash flows from Investing Activities</b>		-	-
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, 2022 and signed by:



Secretary



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

Receipt/Expense Item	a	b	c=a+b	d	e=c-d	f=d/c %
Original Budget	Adjustment	Final Budget	Actual on Comparable Basis	Budget Utilisation Difference	% of Utilisation	
<b>PAYMENTS</b>						
Communication, supplies and services	509,926	509,926	1,019,852	956,815	63,037	94%
Domestic travel and subsistence	6,497,062	2,497,062	8,994,124	8,969,880	24,244	100%
Foreign travel and subsistence	303,276	303,276	606,552	558,816	47,736	92%
Printing, advertising and information supplies & services	468,671	468,671	937,342	903,025	34,317	96%
Training expenses	5,914,988	414,988	6,329,976	6,304,306	25,670	100%
Hospitality supplies and services	68,888,895	12,888,895	81,777,790	81,683,331	94,459	100%
Insurance Costs	300,000	300,000	600,000	421,962	178,038	70%
Specialized materials and services	325,025	325,025	650,050	649,109	941	100%
Office and general supplies and services	941,990	941,990	1,883,980	1,846,628	37,352	98%
Fuel oils and Lubricants	700,687	700,687	1,401,374	1,401,374	0	100%
Other operating expenses	433,186	433,186	866,372	866,371	1	100%
Routine maintenance – vehicles and other transport equipment	378,077	378,077	756,154	755,994	160	100%
Routine maintenance – other assets	297,684	297,684	595,368	576,270	19,098	97%
Purchase of Office Furniture and General Equipment	187,782	187,782	375,564	352,719	22,845	94%
<b>Total Payments/Expenditure</b>	<b>86,147,249</b>	<b>20,647,249</b>	<b>106,794,498</b>	<b>106,246,600</b>	<b>547,898</b>	<b>99%</b>

The entity financial statements were approved on 30th September, 2022 and signed by:


  
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## NOTES

### 1. EXCHQUER RELEASES

	2021-2022	2020-2021
	Kshs	Kshs
Total Exchequer Releases for quarter 1	14,000,000.00	9,885,576.25
Total Exchequer Releases for quarter 2	13,000,000.00	9,885,576.25
Total Exchequer Releases for quarter 3	14,246,600.00	9,885,576.25
Total Exchequer Releases for quarter 4	65,000,000.00	9,885,576.25
<b>Total</b>	<b>106,246,600.00</b>	<b>39,542,305.00</b>

### 2. USE OF GOODS AND SERVICES

	2021-2022	2020-2021
	Kshs	Kshs
Communication, supplies and services	956,815	997,347
Domestic travel and subsistence	8,969,880	4,994,115
Foreign travel and subsistence	558,816	176,551
Printing, advertising and information supplies & services	903,025	537,884
Training expenses	6,304,306	423,725
Hospitality supplies and services	81,683,331	25,624,787
Insurance Costs	421,962	441,700
Specialised Materials and Supplies	649,109	424,583
Office and general supplies and services	1,846,628	1,880,502
Fuel oils and Lubricants	1,401,374	1,171,371
Other operating expenses	866,371	781,215
Routine maintenance –Other Assets	755,994	705,739
Routine maintenance – Motor Vehicle	576,270	579,372
	<b>105,893,881</b>	<b>39,542,305</b>

### 3. ACQUISITION OF ASSETS

	2021-2022	2020-2021
	Kshs	Kshs
Non-Financial Assets		
Purchase of Office Furniture and General Equipment	352,719	195,513
<b>Total</b>	<b>352,719</b>	<b>195,513</b>

### ANNEX 1 – SUMMARY OF FIXED ASSET REGISTER

	Historical Cost 2021-2022	Historical Cost 2020-2021
	Kshs	Kshs
Asset class		
Office equipment, furniture and fittings	352,719	195,513
<b>Total</b>	<b>352,719</b>	<b>195,513</b>



## POMAC MEMBERS HONOURED BY THE PRESIDENT

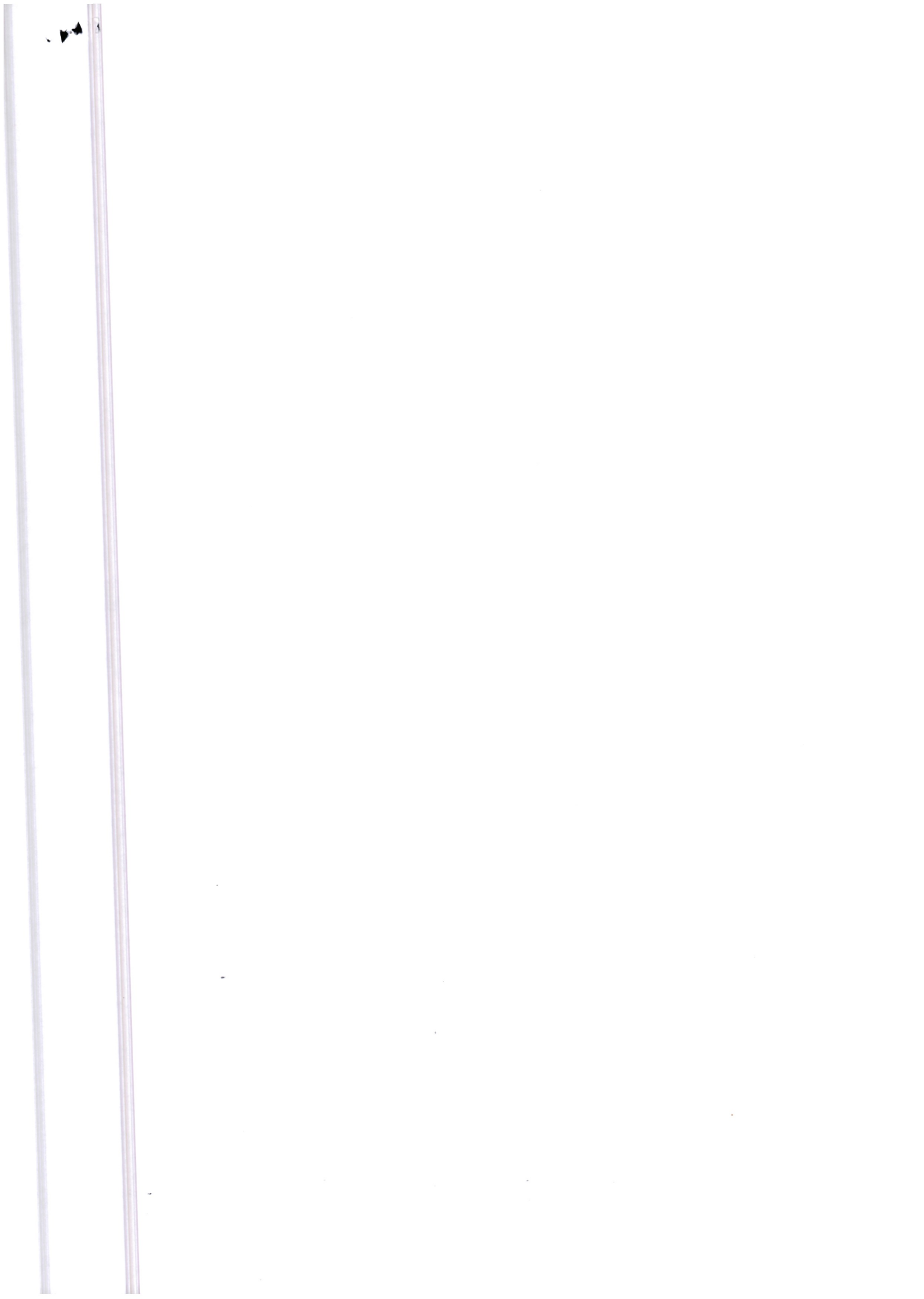
The Power of Mercy Advisory Committee Members were conferred with national honours by retired President H.E. Uhuru Kenyatta. The members, Dr. Scholastic Adeli and Mr. Richard Mativu were both awarded with Order of the Grand Warrior of Kenya (OGW).

A person can be conferred with a national honour in recognition of their exemplary contribution to the nation in their respective area of work.



*Dr. Scholastic Adeli, OGW (centre), Mr. Richard Mativu, OGW (right) with other POMAC members and Mr. Tom Nyamorata (third from left) Director Administration, Cabinet Affairs Office who presented the medals.*

Handwriting practice lines consisting of 20 horizontal dashed lines.





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)