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THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – THIRD SESSION

DEPARTMENTAL COMMITTEE ON EDUCATION AND RESEARCH

REPORT ON THE PETITION REGARDING NON-PAYMENT OF HARDSHIP  
ALLOWANCE TO TEACHERS IN TAITA TAVETA COUNTY BY HON. DANSON  
MWASHAKO, MP  
MEMBER FOR WUNDANYI CONSTITUENCY

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## CHAIRPERSON'S FOREWORD

This Report contains the Committee's proceedings on the consideration of the Petition Regarding Non-payment of Hardship Allowance to Teachers in Taita Taveta County by Hon. Danson Mwashako, MP on behalf of teachers serving in Taita Taveta County. The Petition was presented to Parliament pursuant to Standing Order 220 and Section 4(1b) of the Petition to Parliament (Procedure) Act No. 22 of 2012.

The Petition was presented to the House on 7<sup>th</sup> May, 2019 and committed to the Departmental Committee on Education and Research for consideration.

The petitioners petitioned the Committee through the National Assembly to:

1. Find out the factors to consider an area as a hardship.
2. Find out if the factors in (a) above were considered to deny teachers working in Taita and Taveta sub-counties hardship allowance.
3. Within its powers petition the National Government and the Teachers Service Commission to designate and gazette Taita and Taveta sub-counties as hardship areas.
4. Within its powers petition the National Government and the Teachers Service Commission to designate and gazette Rong'e zone as part of Mwatate sub-county and Taita and designate and gazette it as hardship areas.
5. Within its powers petition the National Government and the Teachers Service Commission to pay hardship allowance to all schools in Taita Taveta County.

In considering the Petition the Committee held a total of eight (8) sittings. During the Sittings the Committee received oral and written submissions from the Petitioner, the Teachers Service Commission and the Ministry of Public Service, Youth and Gender Affairs. The Committee thereafter deliberated the prayers by the Petitioners.

The Committee further conducted a fact-finding visit to Schools in Taita Taveta County between 19<sup>th</sup> and 22<sup>nd</sup> October, 2019 and meet the petitioners. The Committee visited Mwakaleri Primary School, Paranga Secondary School and Daku Primary School in Mwatate and Wundanyi Sub-counties where it held meetings with the teachers on the hardships endured by the teachers in performance of their duties. The Committee also held meeting with teachers in Wundanyi Social Hall.

During the visit Committee received oral submission from Members of Parliament for Wundanyi and Mwatate constituencies on hardship conditions of the two constituencies.

The records of evidence adduced, documents and notes received by the Committee form the basis of the Committee's observations/findings and recommendations as outlined in the Report and can be obtained in the Parliament Library.

The Committee wishes to record its appreciation to the Office of the Speaker and the Clerk of the National Assembly for logistical and technical support accord to it during the consideration of the Petition.

Further, I wish to express my appreciation to the Honourable Members of the Committee who made useful contributions towards the preparation and production of this report.

On behalf of the Members of the Departmental Committee on Education and Research, it's my pleasant privilege and honour to this House the **Report the Petition Regarding Non-payment of Hardship Allowance to Teachers in Taita Taveta County** pursuant to Standing Order 227.

**Hon. Julius Melly, MP**

## **1.0 PREFACE**

### **1.1 Establishment of the Committee**

The Departmental Committee on Education and Research is established under the National Assembly Standing Order 216 (5).

The Committee is mandated, among others, to: -

- i) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
- i) study the programmes and policy objectives of Ministries and departments and the effectiveness of the implementation;
- ii) study and review all legislation referred to it;
- iii) study, assess and analyze the relative success of the Ministries and Departments as measured by the results obtained as compared with their stated objectives;
- iv) investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
- v) vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);
- vi) examine treaties, agreements and conventions;
- vii) make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
- viii) consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and,
- ix) examine any questions raised by Members on a matter within its mandate.

### **1.2 Mandate of the Committee**

In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider Education, Training and Research.

In executing its mandate the Committee oversees the Ministry of Education and the Teachers Service Commission.

### 1.3 Committee Membership

The Committee comprises of the following Members: -

Hon. Julius Melly, MP - **Chairperson**  
MP for Tinderet Constituency  
**Jubilee Party**

Hon. (Dr). Amos Kimunya, EGH, MP- **Vice Chairperson**  
MP for Kipipiri Constituency  
**Jubilee Party**

Hon. Moses Malulu Injendi, MP  
MP for Malava Constituency  
**Jubilee Party**

Hon. Jackson Lekumontare  
MP for Samburu East Constituency  
**KANU Party**

Hon. Geoffrey Makokha Odanga, MP  
MP for Matayos Constituency  
**ODM Party**

Hon. Jerusha Mongina Momanyi, MP  
MP for Nyamira County  
**Jubilee**

Hon. (Dr.) Pamela Ochieng, MP  
MP for Migori County  
**ODM Party**

Hon. John Oroo Oyioka, MP  
MP for Bonchari Constituency  
**Peoples Democratic Party**

Hon. (Eng.) Nzambia Kithua, MP  
MP for Kilome Constituency  
**Wiper Democratic Movement -Kenya**

Hon. Joseph Kipkosgei Tonui, MP  
MP for Kuresoi South Constituency  
**Jubilee Party**

Hon. (Prof.) Zadoc Abel Ogutu, MP  
MP for Bomachoge Borabu  
Constituency  
**Independent**

Hon. Lilian Cheptoo Tomitom, MP  
MP for West Pokot County  
**Jubilee Party**

Hon. Catherine Wambilyanga, MP  
MP for Bungoma County  
**Ford-Kenya**

Hon. Omboko Milemba, MP  
MP for Emuhuya Constituency  
**Amani National Congress**

Hon. Eric Muchangi Njiru, MP  
MP for Runyenjes Constituency  
**Jubilee Party**

Hon. Peter Lochakapong, MP  
MP for Sigor Constituency  
**Jubilee Party**

Hon. Eve Obara, MBS, MP  
MP for Kabondo Kasipul Constituency  
**ODM Party**

Hon. Wilson Sossion, MP  
**Nominated Member**

Hon. Wilson Kipng'etich Kogo, MP  
MP for Chesumei Constituency  
**Jubilee Party**

#### 1.4 Committee Secretariat

Mr. Daniel Mutunga  
**Principal Clerk Assistant I – Lead Clerk**

Mr. Philip Lekarkar  
**Clerk Assistant II**

Ms. Christine Odhiambo  
**Legal Counsel I**

Ms. Annceta Gacheri  
**Research Officer III**

Mr. Eric Kanyi  
**Fiscal Analyst III**

Ms. Winnie Kiziah  
**Media Relations Officer**

## **2.0 CONSIDERATION OF THE PETITION**

### **2.1 MEETING WITH THE PETITIONER HON. DANSON MWASHAKO, MP**

The Committee invited the petitioner Hon. Danson Mwashako to present his petition and thereafter various stakeholders to present their views which informed the Committee findings and recommendations contained in this Report.

Hon. Danson Mwashako on behalf of teachers serving in Taita Taveta County petitioned the Committee as follows:-

1. That Article 41 (2)(a) of the Constitution stipulates that every worker has a right to fair remuneration.
2. That further, the Public Service Policy provides that public servants working in hardship areas are entitled to hardship allowances.
3. That vide Legal Notice No. 534 of 1997 read together with section 7 of the Teachers' Service Commission Act (Cap 212) provides that teachers in hardship areas shall be paid hardship allowance at the rate of 30% of the basic salary.
4. That most areas in Taita Taveta for instance Kishushe, Mwanda and Wumingu among others have not been gazetted as hardship areas yet they are hardship areas yet they are hardships because of deplorable road networks, harsh climatic conditions, water scarcity, human-wildlife conflicts, lack of mobile telephone network coverage and social amenities, among other prevalent problems.
5. That the Ministry has been discriminative in paying hardship allowances for instance teachers in Voi Sub-County get hardship allowance while those in Taveta and Taita Sub-Counties are not entitled to the same.
6. That there has been growing discontent among teachers teaching in various schools because of the disparities in payment of hardship allowances.
7. That the teachers have been reluctant to take up positions in the areas that are not entitled to hardship allowance hence this has adversely affected school performances in the aforementioned sub-counties and general development of the area.
8. That efforts to resolve the matter with the Teachers Service Commission and the Salaries and Remuneration Commission have been futile;
9. That the matters raised in the petition are not pending before any court of law or constitutional body.

The petitioners prayed that the National Assembly through the Departmental Committee on Education and Research:

1. Find out the factors to consider an area as a hardship.
2. Find out if the factors in (a) above were considered to deny teachers working in Taita and Taveta sub-counties hardship allowance.
3. Within its powers petition the National Government and the Teachers Service Commission to designate and gazette Taita and Taveta sub-counties as hardship areas.



4. Within its powers petition the National Government and the Teachers Service Commission to designate and gazette Rong'e zone as part of Mwatate sub-county and Taita and designate and gazette it as hardship areas.
5. Within its powers petition the National Government and the Teachers Service Commission to pay hardship allowance to all schools in Taita Taveta County.

#### **Committee Observations**

The Committee observed as follows:

1. That different criteria were used to categorize hardship areas in Taita-Taveta County and led to some areas left out.
2. Teachers in some deserving areas of the County are not benefitting from hardship allowance.
3. Because of the discrepancies in designation and gazzettement of hardship areas and payment of hardship allowances, teachers are reluctant to take up teaching and administrative positions in non-gazzetted hardship zones. This has led to deteriorating academic performance in zones in such areas.

#### **2.2 SUBMISSION BY PRINCIPAL ADMINISTRATIVE SECRETARY, STATE DEPARTMENT FOR PUBLIC SERVICE**

The Ms. Mary Kimonye, the Principal Administrative Secretary for the State Department for Public Service appeared before the Committee to apprise it on the criteria of designating areas as hardship areas. She informed the Committee as follows:-

##### **Criteria for designation of areas as hardship areas in the civil service**

That hardship allowance was introduced in post-independence period to partially compensate public servants working in designated hardship areas. It was paid to officers as an inducement to work in hardship areas and due to resultant isolation and separation from families.

Designated areas in the Public Service for the purposes of payment of hardship allowance were remote areas categorized as areas lacking basic social services, amenities and infrastructure.

A taskforce constituted by the defunct Public Service Remuneration Review Board (PPSRRB) in 2007 comprising the Teachers Service Commission (TSC), Ministry of Finance, Ministry of State for Public Service and Ministry of Planning developed weighted criteria for re-examining hardship areas after visiting the areas that were contested as hardship areas which were areas designated by TSC and Civil Service as proposed by the Provincial Administration and Internal Security and some proposed by members of Parliament.

- (i) The weighted criteria was based on the following criteria:-
- (ii) Non/limited availability and accessibility to food;
- (iii) Non/limited availability access to water;
- (iv) Non/inadequate transport and communication services;
- (v) Non/limited availability of social services and amenities;
- (vi) Harsh climatic conditions

- (vii) Insecurity and high possibility of security threats; and
- (viii) Socio economic indicators such as poverty index from the Kenya National Bureau of Statistics.

The taskforce submitted its recommendations to the Cabinet in 2008 vide a Cabinet Memo No. 19 recommending gazettment and degazettment of some hardship areas and further recommended regular reviews of areas categorized as hardship or non-hardship for degazettment or gazettment as appropriate by the Minister of State for Public Service among other recommendations.

### **Designated hardship areas for the Civil Service**

There are currently sixteen regions which so far have been designated as hardship areas in the Civil Service according to the Head of Public Service vide Circular Ref. No. OP/CAB/1/13A of 7<sup>th</sup> December, 2015. The areas are the counties of Tana River, Lamu, Garissa, Wajir, Mandera, Marsabit, Isiolo, Makueni, Turkana, West Pokot, Samburu Elgeyo-Marakwet, Baringo (excluding Koibatek sub-county), Tinderet Sub-county in Nandi county and Manyani area in Ngolia ward in Taita Taveta County (**ANNEX II**).

### **Criteria for determination of designated hardship areas in the Teaching Service**

Prior to 1997, Civil and Teaching services had similar designated hardship areas, which included North Eastern Province (Garissa, Wajir, Mandera), Isiolo Samburu, Marsabit, Tana River, Lamu and northern areas of Baringo. This comprised of eleven (11) fairly distinct hardship areas.

In 1997 the Minister for Education through legal notice No. 534 of 11<sup>th</sup> November to 1997 gazetted additional 25 hardship areas for the Teaching service following recommendation by the Teachers Service Remuneration Committee. This followed a bargaining agreement with the Kenya National Union of Teachers. The recommendation was based on the agreement that teachers work in more remote areas as opposed to the civil servant who are mostly posted to district and divisional headquarters only. In 2005, the number of designated hardship areas for the teaching service was increased from 36 to the current 44 as indicated in appendix II.

The Civil Service both national and county governments has sixteen designated hardship areas. Hardship allowance is paid based on the prevailing categorization and rates guided by the Salaries and Remuneration Commission Circular No. SRC/ADM/CIR/1/13/VOL.III (126) dated 10<sup>th</sup> December, 2014 which reviewed hardship allowance to be paid at a flat rate of all equivalent grades across the Public Service.

### **Hardship Areas in Taita Taveta County**

Teachers Service Commission has designated 44 regions as hardship areas.

In Taita Taveta County, the areas that have been designated area as Mbololo Mwatate and Voi divisions only as indicated in the Legal No. 534 of 1997.

Discrepancies in gazetting areas ah hardship or non-hardship as exemplified by the fact that Kungu Primary School and Elijah Mzae Secondary School in Mwatate Consistuecy share the same compound but only teachers in Elijah Mzae Secondary School are paid hardship allowance.

It is true that teachers in Kungu Primary School are not currently receiving hardship allowance whereas teachers in Elijah Mzae Secondary school sharing the same compound are not receiving hardship allowance. This was occasioned by the fact that, at the time of registration and coding of the school into the Government Integrated Personnel Payroll Data (IPPD) System, the records had

revealed that Kungu Primary School is Wundanyi District which has never been gazetted as a hardship area.

According to the records held at TSC, Kungu Primary School code is 6-03070 is coded as in Wundanyi Sub-county which is not designated as a hardship area while Elijah Mzae Secondary School code 6-03070 is coded as in Mwatate sub-county which is designated as a hardship area.

#### **Constitution of the Inter Agency Technical Committee by the Ministry**

In order to address the challenges relating to the categorization and payment of hardship allowances with a view to eliminating the existing discrepancies and promote fairness and parity in treatment of public servants, the Ministry of Public Service, Youth and Gender vide a letter MPYG.DPSM.HRM/2/1/5/TY (30) dated 21<sup>st</sup> March, 2019 constituted an Inter-Agency Technical Committee comprising the Ministry of Public Service, Youth and Gender, Ministry of Interior and Co-ordination of National Government, Ministry of Education, The National Treasury and Planning, Public Service Commission, Teachers Service Commission and the Kenya National Bureau of Statistics to study the prevailing policies, circulars and guidelines on designated hardship areas and payment of hardship allowance and make appropriate recommendations.

Based on the preliminary findings and recommendations of the Inter-Agency Committee, the Ministry has requested the Kenya National Bureau of Statistics to:-

Review the unit of analysis from the current county/sub-county/division/location/town/urban centre/zone to sub-location for the purposes of determining hardship areas for accuracy in targeting the beneficiaries

Undertake a study on development levels of the current designated hardship areas to inform areas to be gazette as hardship and those to be de-gazetted based on levels of development

#### **Committee observations**

The Committee observed as follows:-

1. That currently designation of hardship areas is based on the Teachers Service Commission and Public Service criteria.
2. The Government policy criteria on designation hardship areas and payment of hardship allowance does not conform to the situation on the ground in Taita Taveta County.
3. There are a lot of discrepancies in mapping and designation of hardship areas in the county hence there is need for rationalization and harmonization of hardship areas.

#### **2.3 SUBMISSION BY THE CHIEF EXECUTIVE OFFICER, TEACHERS SERVICE COMMISSION**

Through a written submission Dr. Nancy Macharia, the Chief Executive Officer, Teachers Service Commission submitted to the Committee as follows:-

##### **Criteria used to identify and consequently gazette hardship areas**

Designated hardship areas in the public service for purpose of payment of hardship allowance were remote areas categorized as lacking basic social services, amenities and infrastructure

Prior to 1997, the civil service and the teaching service had similar designated hardship areas which included North Eastern Province (Garissa, Wajir, and Mandera), Isiolo Samburu, Marsabit, Tana River, Lamu and northern areas of Baringo. This comprised of eleven (11) fairly distinct hardship areas.

In 1997 the Minister for Education through legal notice No. 534 of 11<sup>th</sup> November to 1997 gazetted additional 25 hardship areas for the Teaching service following recommendation by the Teachers Service Remuneration Committee. This followed a bargaining agreement with the Kenya National Union of Teachers. The recommendation was based on the agreement that teachers work in more remote areas as opposed to the civil servant who are mostly posted to district and divisional headquarters only. In 2005, the number of designated hardship areas for the teaching service was increased from 36 to the current 44 as captured in Code of Regulation for Teachers (CORT) 2005 (**Annex II**).

Upon the promulgation of the 2010 Constitution, the mandate to designate areas as hardship now requires multi-government agency approach led by the Salaries and Remuneration Commission, The National Treasury, the Ministry of Public Service, Youth and Gender and the Independent Electoral and Boundaries Commission.

The Teachers Service Commission on its own lack the mandate to determine and designate hardship areas for public officers including teachers. To this end the Commission has commenced internal consultations with intergovernmental agencies to address the current discrepancies in designation and payment of hardship allowance.

#### **Discrepancies in the designation of hardship areas in Mwatate and Wundanyi sub-counties**

It is true that there exist discrepancies in designation of areas as hardship within the two sub-counties. For instance, teachers stationed in Kungu Primary School are currently not receiving hardship allowance while their counterparts in Elijah Mzae Secondary School are paid hardship allowance this is despite the fact that the two schools share the same compound. The discrepancy was occasioned by the fact that at the time of registration and coding, the two schools were captured in different administrative boundaries.

Kungu Primary School code 6-04082 was coded as in Wundanyi Sub-County in May 2008 which is not designated as a hardship area as per CORT (2005) while Elijah Mzae Secondary School code 6-03070 was captured as in Mwatate Sub-County which is designated as a hardship area as per CORT (2005).

Why payment of hardship allowance for teachers in Rong'e Ward in Mwatate Constituency was withdrawn when Rong'e Ward educational administrative boundaries were transferred from Voi Constituency to Mwatate Constituency

Rong'e ward was coded in the Commission payroll under the then Tausa Division in Taita Taveta County. Accordingly, Rong'e ward did not qualify for hardship allowance because Tausa Division was not a designated hardship area.

The areas designated as hardship areas are Mbololo, Mwatate and Voi Divisions. Thus Rong'e ward did not qualify for hardship as per the administrative boundaries.

The Commission has commenced internal consultations with the relevant intergovernmental agencies to address the current discrepancies in designation and payment of hardship allowance in the entire country.

### **Committee observations**

The Committee observed that:-

1. The discrepancies in designation and payment of hardship allowance is as a result of the use of disparities of administrative boundaries to map areas considered as hardship and when such boundaries are altered the hardship status of changes.
2. The discrepancies are also as a result of errors at the time of registration and coding of the schools into the Government Integrated Personnel Payroll Data (IPPD) System, where schools in designated hardship areas are captured as found in non-hardship areas.
3. As a result of the disparities and discrepancies in designation of hardship areas, teachers serving in remote parts of Taita Taveta County that qualify as hardship areas are not being paid hardship allowance.

### **2.4 COMMITTEE FACT-FINDING VISIT TO TAITA-TAVETA COUNTY**

The Committee conducted a fact-finding visit to Schools in Taita Taveta County between 19<sup>th</sup> and 22<sup>nd</sup> October, 2019 and meet the petitioners.

The Committee visited Mwakaleri Primary School, Paranga Secondary School and Daku Primary School in Mwatate and Wundanyi Sub-counties where it held meetings with the teachers on the hardships endured by the teachers in performance of their duties. The Committee also received oral submission from Wundanyi and Mwatate constituencies Members of Parliament on hardship conditions of the two constituencies.

The Committee further later held meeting with Teachers in Wundanyi Town Social Hall where the teachers presented their submission as regards the petition.

The Committee also visited Orkungu and Timbila Primary schools in Taveta Sub-county where it received submission from the Teachers.

#### **2.4.1 Submission by Hon. Andrew Mwadime, MP Mwatate Constituency**

Hon. Andrew Mwadime, Member of Parliament for Mwatate Constituency informed the Committee as follows:

That Mwatate sub-county is gazetted as hardship areas however Rong'e zone which covers the venue of the venue is not considered as hardship area.

There are discrepancies on hardship status of the zones within the sub-county. Oddly the areas gazetted as non-hardship areas are the far flung areas characterized by hilly terrain, deplorable road networks, harsh climatic conditions, water scarcity, human-wildlife conflict, lack or poor mobile telephone network coverage and social amenities among other prevalent problems.

As a consequence teachers serving in the most hardship areas are not paid get hardship allowance which has contributed to low morale of the teachers, discontent and reluctance take up teaching opportunities in such areas.

Teachers have been reluctant to take up teaching positions in the areas that are not entitled to hardship allowance hence this has adversely affected school performances in the aforementioned sub-counties and general development of the area.

He requested the Committee to take action it deems fit to resolve the teachers concerns and recommend for consideration for gazettment of the whole county of Taita Taveta as a hardship area.

#### **2.4.2 Hon. Danson Mwashako, M P – Mwatate ConsistENCY**

Hon. Danson Mwashako, Member of Parliament for Wundanyi Constituency on behalf of the petitioners petitioned the Committee as follows:-

- (i) That all teachers working in Taita Taveta county petition the National Assembly to:
- (ii) Find out what are the factors considered to classify an area as a hardship area;
- (iii) Find out if the factors in (a) above were considered to deny teachers working in some parts of Taita Taveta County hardship allowance;
- (iv) Within its powers petition the relevant Ministry to gazette Taita and Taveta sub-counties as hardship areas.
- (v) Within its powers petition the relevant Ministry to recognize Rong'e zone as part of Mwatate sub-county and designate it as a hardship area.
- (vi) Within its powers petition the relevant Ministry and the Teachers Service Commission to pay hardship allowance to teachers working in all schools in Taita Taveta County.

#### **2.4.3 Submission by teachers' representative Mr. Kapanga Shume - Headteacher Mwanyambo Secondary School in Rong'e Zone.**

Mr. Kapanga Shume on behalf of the teacher from Rong'e zone submitted that:

Taita sub-county is an arid and semi-arid area and receives rainfall of less than 250mm per year. The area deserves to be gazetted as a hardship area because of the following:-

##### **(i) Transport Challenges**

Public service transport is highly unreliable in due to the poor roads, steep mountains as a result the only a few public service vehicles are available and only make one trip a day to Voi or Wundanyi. The vehicles cannot manage to go uphill where a number of schools are located as a result of human settlements on top of the mountains. The only alternative means of travel outside the PSV schedule is a taxi or motor cycle which charge a minimum of Kshs. 3000 and Kshs.1000 respectively for a return journey to Voi. Taita sub-county has poor roads. The only tarmacked roads are the Voi -Taveta road and Voi - Nairobi highway which transverses the county. All other roads are not tarmacked and become impassable during rainy season.

##### **(ii) Unreliable/Lack of health services**

There are few, understaffed and understocked dispensaries in the area. Most teachers are forced to travel long distances to Voi to seek medical assistance for their family members or themselves. Coupled with limited number of vehicles for public transport in the area emergencies can be life threatening.

##### **(iii) Water Shortage**

Most part of the sub-county suffer from acute water shortage either due to arid conditions or lack of piping forcing the teacher to fetch water from far distances.

**(iv) High Cost of foodstuffs**

Taita Taveta has no staple food crop. The only crop that does well in the county is sisal which is grown for commercial purposes. Foodstuffs and other commodities are highly priced in many parts of the sub-county due to the high cost of transportation. Worst still some areas lack most of the items and teachers have to travel long distances to buy foodstuffs. Most boreholes drilled in the area operate only for one month and thereafter run dry. Furthermore the water is salty and unfit for human consumption.

**(v) Long distances from the administrative areas**

Most teachers in Rong'e zone have to travel through Voi a different sub-county to reach Mwatate which hosts the administrative offices of the Ministry of Education and the Teachers Service Commission. Much time and money is spent in making such trips.

**(vi) Inadequate/lack of quality housing**

Most of the schools and centres lack housing for teachers thus many teachers commute from Voi town paying at least Kshs. 300 one way fare. The rental houses available are unsuitable for families as they are single-roomed with common shared facilities.

**(vii) Human-wildlife conflict**

The sub-counties of Mwatate and Wundanyi border Tsavo East and West national parks and wildlife such as elephants, lions and other animals straying from the park invade farms wreaking havoc and destruction of the little crops, attack humans and kill livestock. Cases of elephants straying into schools have been reported disrupting learning activities and destroying schools' agriculture projects.

**Committee Observations**

The Committee observed that:-

1. Most areas in Taita sub-county such as Rong'e ward are extremely hardship area due to the harsh climatic conditions, poor road network, inaccessibility of social services and the prevalence of extreme weather conditions of floods and drought.
2. That there is reluctance of teachers to transferred from other areas to report to schools in the Taita Sub-county due to the hardship conditions of the area. This has occasioned acute shortage of teachers in the schools.
3. There is a clear case of discrepancies in the criteria used to gazette the County as hardship area or not as exemplified by the fact that Kungu Primary School and Elijah Mzae Secondary School in Mwatate Constituency which share the same compound but only teachers in Elijah Mzae Secondary School are paid hardship allowances.
4. Rong'e zone which apparently is the most hardship area is the only zone in Mwatate that is not gazetted as a hardship area.

#### **2.4.4 Submission by Kenya National Union of Teachers (KNUT) Taita Taveta branch on the petition regarding non-payment of hardship allowance to teachers working in Taita Taveta County**

The Knut Executive Secretary Taita Taveta Branch Mr. Lenox Mshila on behalf of the teachers submitted as He submitted as follows:-

That during 2010 review of hardship areas in Kenya, Taita Taveta County was categorized as hardship area, however some of the most hardship are yet to receive the allowance.

The challenges experienced in the areas include:

##### **(i) Human- Wildlife conflict**

Taita Taveta County hosts both Tsavo East and Tsavo West national parks. Wildlife from the parks stray into human settlements destroying crops and killing livestock. Many people have been killed or injured, while crops have been destroyed by wild animals. At times school children and teachers report to school late and leave for home early due to the fear of animals straying from the protected areas.

##### **(ii) Rough terrain**

Parts of Wundanyi and Mwatate sub-counties are hilly with very rough terrain. The road from Mwatete to Taita Hills to Wundanyi is rough, winding dangerously up the hills. Accessing the schools on top of the hills is a challenge and this is worsened by the fact that there are no reliable means of public transport.

##### **(iii) High cost of living**

The market prices of foodstuffs and commodities in parts of Wundanyi and Mwatate are unusually high due unavailability and unreliable means of transportation posing a heavy burden to households. In addition, the cost of transportation is high for example a teacher from Daku/Kishushe visiting the sub-county education offices will spend over Kshs. 3,000 return fare. Vehicles are limited and the teacher may be forced to lodge in the town or use motor bike which is risky at night.

##### **(iv) Lack of health care services**

Being a crucial social amenity, it is hard for teachers and members of their families to access health services because of the long distance they have to travel. It even becomes worse in cases of emergencies as there are no ambulatory services.

##### **(v) Housing**

Nearly all schools lack staff houses within the school compounds and teachers are forced to rent houses at far away trading centres further aggravating challenges of commuting to schools early in the morning and going home late in the evening.

##### **(vi) Lack of sufficient and clean drinking water**

The area experiences long dry spells leading to scarcity of water for most of the period of the year. Teachers are forced to buy water at exorbitant prices.



#### **(vii) Lack/unreliable Mobile telephony network**

Most of the areas in the three sub-counties of Wundanyi, Mwatate and Taveta are not covered by mobile telephone network leading to challenges in timely receipt official communication from various offices, family members and friends and making SOS calls in cases of emergencies. Teachers cannot access internet to fill TPADs unless the travel towns served by mobile network and electricity. This leads to loss of teaching time.

The hardship challenges have resulted to understaffing in schools in non-hardship areas as teachers are reluctant to be transferred there or apply for recruitment in such school. This has contributed to poor performance and low retention rates of pupils in schools.

#### **2.4.5 Submission by KEPSHA – Taita Sub-County Branch**

The Mr. Bean Mwalwala, the Chairperson of Kenya Primary Schools Heads Association informed the Committee that Taita Sub-county is faced by the following challenges as therefore consideration should be made to gazette it as a hardship area:

- (i) Distant medical facilities
- (ii) Lack of essential services like banks, mobile telephone network, banking services
- (iii) Prevalence of human-wildlife conflict affecting school attendance negatively
- (iv) High cost of living due to highly priced foodstuffs, poor road network, water scarcity

#### **Submission by Teachers from Taveta Sub-County on the hardship conditions in the sub-county**

The Teachers from Taveta Sub-County through their representative submitted the Committee as follows:

- (i) Lack of clean water in Eldoro, Kitoghotu, Abori areas and residents are sometimes forced by the circumstances to use water from the contaminated canals and pools for domestic use. This exposes the residents to risks of contracting water borne diseases. A lot of time is spent looking for clean and fresh drinking water.
- (ii) Housing problem is a common phenomenon in all the areas of Kimorigho zone. Teachers are forced to travel for a very long distance between 13- 25km to access decent housing facilities. This is very costly to teachers.
- (iii) The sub-county being a lowland is affected by floods during the rainy season.
- (iv) During rainy season some schools like Abori primary school become inaccessible since the floods extends to school environment. Teachers and learners are exposed to water borne diseases. The water usually stagnates in some areas providing a very conducive environment for the breeding of mosquitoes. Malaria is a common phenomenon in the area.
- (v) The area experiences prolonged dry season. During this period supply of foodstuffs reduces and price escalate.
- (vi) During this season, the area experiences very high temperatures. As a result residents are exposed to a variety of illness related to exposure to extreme heat e.g. heat rashes, heat cramps etc.

(vii) Transport and Communication Challenges: During the rainy season the roads are usually in bad state (impassable). In some parts of these roads, gullies which are common phenomenon.

**The Committee observed as follows:**

1. There exist discrepancies in designation of hardship areas and payment of hardship allowance to teachers within Taita Taveta County.
2. Mwatate and Wundanyi Sub-counties are deserving areas for consideration to be designated as hardship areas.

### **3.0 COMMITTEE OBSERVATIONS**


The Committee observed the following:

1. Different government agencies have used different criteria to determine areas to be designated as hardship areas causing discrepancies.
2. The existing criteria used to determine an area as hardship is too general and not robust enough to capture specific details about the areas at the sub-locational level.
3. The Government has constituted an Inter-Agency Technical Committee comprising the Ministry of Public Service, Youth and Gender, Ministry of Interior and Co-ordination of National Government, Ministry of Education, The National Treasury and Planning, Public Service Commission, Teachers Service Commission and the Kenya National Bureau of Statistics to study the prevailing policies, circulars and guidelines on designated hardship areas and payment of hardship allowance and make appropriate recommendations. The report is yet to be finalized.

#### 4.0 COMMITTEE RECOMMENDATIONS

The Committee recommends the following:

1. That the Teachers Service Commission and the Intergovernmental Agencies constituted by the Ministry of Public Service, Youth and Gender Affairs reviewing the hardship areas should, based on the ongoing study align the administrative boundaries accordance with the Counties, Consistency and Wards boundaries to resolve the disparities of designation of hardship areas.
2. The Inter-governmental agencies mandated to designate areas as hardship led by the Salaries and Remuneration Commission, The National Treasury and the Ministry of Public Service, Youth and Gender should visit Taita Taveta County within 2 weeks from the date of tabling of this report to study the factors considered for an area to be categorized as a hardship area with a view to address discrepancies in designation of hardship areas in the County and report to the National Assembly within two months.
3. The Inter-governmental agencies should conduct a countrywide review of all counties at the sub-locational level to resolve the current discrepancies in designation and payment of hardship allowance to teachers and public servants.
4. The Inter-governmental agencies should develop a clear criteria on factors and the threshold required for an area to be designated as a hardship area.





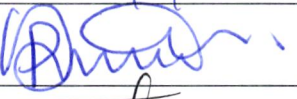
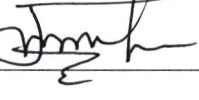
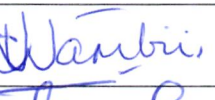


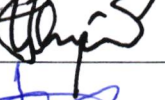

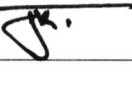



Sign  Date 5/12/2017

**HON. JULIUS MELLY, MP**

**CHAIRPERSON, DEPARTMENTAL COMMITTEE ON EDUCATION AND RESEARCH**

COMMITTEE ON EDUCATION AND RESEARCH

**ADOPTION OF THE REPORT ON THE PETITION REGARDING NON-PAYMENT OF HARDSHIP ALLOWANCE TO TEACHERS IN TAITA TAVETA COUNTY**

|     | NAME   | SIGNATURE   |
|-----|--|---|
| 1.  | Hon. Julius Melly, MP - Chairperson                      |    |
| 2.  | Hon. Dr. Amos Kimunya, EGH, MP - Vice-Chair              |    |
| 3.  | Hon. Moses Malulu Injendi, MP                            |    |
| 4.  | Hon. Geoffrey Makokha Odanga, MP                         |    |
| 5.  | Hon. (Dr.) Pamela Ochieng, MP                            |    |
| 6.  | Hon. (Eng.) Nzambia Thuddeus Kithua, MP                  |   |
| 7.  | Hon. (Prof.) Zadoc Abel Ogutu, MP                        |   |
| 8.  | Hon. Catherine Wambilyanga, MP                           |  |
| 9.  | Hon. Eric Muchangi Njiru, MP                             |  |
| 10. | Hon. Eve Obara, MBS, MP                                  |  |
| 11. | Hon. Jackson Lekumontare, MP                             |  |
| 12. | Hon. Jerusha Mongina Momanyi,                            |  |
| 13. | Hon. John Oroo Oyioka, MP <input type="checkbox"/>       |   |
| 14. | Hon. Joseph Kipkosgei Tonui, MP                          |  |
| 15. | Hon. Lilian Cheptoo Tomitom, MP                          |   |
| 16. | Hon. Omboko Milemba, MP <input type="checkbox"/>         |   |
| 17. | Hon. Peter Lochakapong, MP                               |  |
| 18. | Hon. Wilson Sossion, MP                                  |  |
| 19. | Hon. Wilson Kipngetich Kogo, MP <input type="checkbox"/> |  |



ANNEX I

REPUBLIC OF KENYA  
TWELFTH PARLIAMENT (SECOND SESSION)  
THE NATIONAL ASSEMBLY  
(No. 94 of 2018)

PUBLIC PETITION  
REGARDING NON-PAYMENT OF HARDSHIP ALLOWANCE TO TEACHERS IN  
TAITA TAVETA COUNTY

I, the **UNDERSIGNED**, on behalf of the Teachers of Taita Taveta County;

**DRAW** the attention of the House to the following: -

1. **THAT**, Article 41(2)(a) of the Constitution stipulates that every worker has a right to fair remuneration;
2. **THAT**, further, the Public Service Policy provides that public servants working in hardship areas are entitled to hardship allowances;
3. **THAT**, vide Legal Notice No. 534 of 1997 read together with Section 7 of the Teachers Service Commission Act (Cap 212) provides that teachers in hardship areas shall be paid hardship allowance at the rate of 30% of the basic salary;
4. **THAT**, most areas in Taita Taveta County for instance Kishushe, Mwanda and Wumingu among others have not been gazetted as hardship areas yet they are hardships because of deplorable road networks, harsh climatic conditions, water scarcity, human-wildlife conflicts, lack of mobile/telephone network coverage and social amenities, among other prevalent problems;
5. **THAT**, the Ministry has been discriminative in paying hardship allowances for instance teachers in Voi Sub-County and some parts of Mwatate Sub-County get hardship allowance while in those in Taveta and Taita Sub-Counties are not entitled to the same;
6. **THAT**, there has been growing discontent among teachers teaching in various schools because of the disparities in payment of hardship allowances;
7. **THAT**, teachers have been reluctant to take up teaching positions in the areas that are not entitled to hardship allowance hence this has adversely affected school performances in the aforementioned sub-counties and general development the area;
8. **THAT**, efforts to resolve this matter with Teachers Service Commission and the Salaries and Remuneration Commission have been futile; and

ANNEX I

Taita Taveta County Teachers,  
P.O. Box 57 -80305,  
MWATATE

Date: 29<sup>th</sup> May, 2018

The Clerk,  
Kenya National Assembly,  
Parliament Buildings,  
P.O. Box 41842 – 00100  
NAIROBI

Through,  
Hon. Danson Mwashako Mwakuwona, MP  
Member for Wundanyi Constituency,

Forwarded  
EXECUTIVE SECRETARY  
TAITA COUNTY  
P.O. BOX 57 - 80305 MWATATE  
2017/18

Dear Sir / Madam,

**RE: PETITION - HARDSHIP ALLOWANCE FOR ALL TEACHERS WORKING IN  
TAITA TAVETA COUNTY**

The above subject refers.

Constitution of Kenya 2010 article 41 (2) (a) states that every work has a right to fair remuneration. This constitutional right is not enjoyed by teachers working in Taveta and Taita Sub Counties and some parts of Mwatate Sub County due to denial of hardship allowance by Teachers Service Commission (TSC).

Teachers Service Commission pays hardship allowance to teachers working in areas gazetted or designated as hardship. The rate of hardship allowance is thirty (30) percent of teacher's basic salary as per Legal Notice 534 of 1997.

Taita Taveta County some parts are gazetted or designated by TSC as hardship as explained below.

**1. Taita Sub County / Wundanyi Constituency**

Teachers in the whole Sub County do not benefit from hardship. Serious consideration must be done because of the following reasons.

- (a) Some parts of the sub county are extremely dry like Kishushe, Mwanda and Wumingu areas.
- (b) In some areas roads are impassable.
- (c) Unreliable weather patterns.



school in Taveta Sub County / Constituency or Taita Sub County / Wundanyi Constituency and loose the allowance.

With all the above report, all teachers working in Taita Taveta County petitions the **Kenya National Assembly** to:

- (a) Find out what are the factors considered to consider an area as hardship.
- (b) Find out if the factors in (a) above were considered to deny teachers working in Taveta and Taita Sub Counties hardship allowance.
- (c) Within its powers petition the national government / TSC through appropriate means to gazette or designate Taveta and Taita sub counties as hardship.
- (d) Within its powers petition the national government / TSC to recognize Rong'e zone as part of Mwatate Sub County and designate it as hardship area.
- (e) Within its powers petition national government / TSC to pay hardship allowance to teachers working in all schools in Taita Taveta County.

Teachers working in Taita Taveta County are ready to appear before the relevant Committee of the National Assembly if required to give more information.

Looking forward for favourable reply and befitting action.

Yours faithfully,

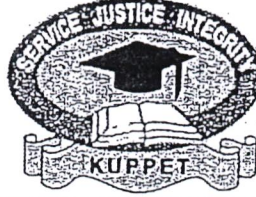
Taita Taveta County Teachers  
**(Signed list of teachers is attached)**

- C.C
- (1) Speaker of the National Assembly
  - (2) Leader of Majority, National Assembly
  - (3) Leader of Minority, National Assembly
  - (4) MP, Mwatate Constituency
  - (5) MP, Taveta Constituency
  - (6) MP, Voi Constituency
  - (7) Executive Secretary, KUPPET Taita Taveta County
  - (8) Executive Secretary, KNUT Taita Taveta County

**KENYA UNION OF POST-PRIMARY EDUCATION TEACHERS (KUPPET)  
TAITA TAVETA COUNTY**

**KUPPET - COUNTY OFFICE**

Wawaka Building  
Mwatate - Wundanyi Road  
Mwatate Town



P.O. BOX:124-80305, MAWTATE

Tel: 0721249897/ 0724284268

Email: taitakuppet@gmail.com

www.kuppetkenya.com

Our Ref: KTT/TTC/NA/18.1

Date: 20<sup>th</sup> July, 2018

**The Clerk,  
Kenya National Assembly,  
Parliament Buildings,  
P.O. Box 41842 - 00100  
NAIROBI**

Through,

**Hon. Danson Mwashako Mwakuwona, MP  
Member for Wundanyi Constituency,**

Dear Sir / Madam,

**RE: PETITION - HARDSHIP ALLOWANCE FOR ALL TEACHERS WORKING IN  
TAITA TAVETA COUNTY**

The above subject refers.

Attached find a signed petition by teachers working in Taita Taveta County in protest for discriminative payment of hardship allowance by Teachers Service Commission (TSC), supporting documents and several correspondences between KUPPET, TSC, Ministry of Education and other organizations on the same of which some date back to the year 1997.

As a union, KUPPET Taita Taveta County Branch requests the **National Assembly** to move with speed to look in to the petition and:

- (a) Find out what are the factors considered to consider an area as hardship.
- (b) Find out if the factors in (a) above were considered to deny teachers working in Taveta and Taita Sub Counties hardship allowance.
- (c) Within its powers petition the national government / TSC through appropriate means to gazette or designate Taveta and Taita sub counties as hardship.
- (d) Within its powers petition the national government / TSC to recognize Rong'e zone as part of Mwatate Sub County and designate it as hardship area.

**All correspondence through the Executive Secretary**

Chairman - Mwakisakenyi Mwiwawi  
Vice Chairman - Hilton Kachila  
Organising Secretary - Joseph Ndalo  
Secretary Secondary - Philip Odhiambo

Executive Secretary - Shedrack M. Mutungi  
Asst. Ex. Secretary - Jackson Mwamachi  
Secretary Gender - Mancelline Taro M.

Treasurer - Elpina Tayo  
Asst. Treasurer - Selestine Wakio  
Secretary Tertiary - Gitoga Gachago

LEGAL NOTICE NO. 534

THE TEACHERS SERVICE COMMISSION ACT  
(Cap. 212)

IN EXERCISE of the powers conferred by section 14 (3) of the Teachers Service Commission Act, the Minister for Education makes the following Order:—

THE TEACHERS SERVICE COMMISSION (REMUNERATION OF TEACHERS) ORDER, 1997

1. This Order may be cited as the Teachers Service Commission (Remuneration of Teachers) Order, 1997.

2. The remuneration of teachers in the teaching service, of the grades specified in the first column of the Schedule shall be in accordance with the salary scales specified in columns 2, 3, 4, 5, 6 and 7 with effect from the date specified under each column.

3. The automatic house allowance payable to teachers in the teaching service shall be at the rate of 35 per cent of the minimum basic salaries specified in the second column of the First Schedule for the financial year 1997/98; at 45 per cent of the minimum basic salaries specified in the second column of the First Schedule for the year 1998/99 and at 50 per cent of the minimum basic salaries specified in second column of the First Schedule for the year 1999/2000 and the subsequent years.

4. Medical allowances payable to teachers in the teaching service shall be at the rate of 15 per cent of the minimum basic salaries specified in column 2 of the First Schedule for the financial year 1997/98 and at 20 per cent of the minimum basic salaries specified in the second column of the First Schedule for the financial year 1998/99 and the subsequent years.

5. Responsibility allowances payable to teachers in the teaching service shall be payable at the rate of 100 per cent of the current rates contained in the code of regulations for teachers (Code of Regulations for Teachers Revised 1986) for the financial year 1997/98; 250 per cent for the financial year 1998/99; 400 per cent for the financial year 1999/2000; and 500 per cent for the financial year 2000/2001 and the subsequent years.

6. Special allowance payable to teachers in the teaching service who are deployed to teach in special schools/institutions and teachers who possess diplomas or certificates in special education deployed to teach in special units shall be at the rate of 10 per cent of the minimum basic salary with effect from 1st July, 1997.

7. Hardships allowance payable to teachers in the teaching service shall be at the rate of 30 per cent of the minimum basic salary specified in the second column of the first schedule with effect from 1st July, 1997. All the teachers serving in the districts/areas gazetted as hardship areas and

ANNEX II