




*Approved*  
*SNA*  
*11/6/24*

**THE NATIONAL ASSEMBLY  
THIRTEENTH PARLIAMENT (THIRD SESSION - 2024)  
PUBLIC PETITIONS COMMITTEE**

 <b>THE NATIONAL ASSEMBLY PAPERS LAID</b>	
DATE: <b>11 JUN 2024</b> DAY: <b>Tuesday</b>	
TABLED BY:	Chair, Public Petitions Committee Hon. Nimrod Mbatia, MP
CLERK AT THE TABLE:	Benson Inzoga

**REPORT ON -**

**THE CONSIDERATION OF PUBLIC PETITION NO. 07 OF 2023 REGARDING THE  
GAZETTEMET OF RACHUONYO NORTH AS A HARDSHIP AREA**

**JUNE, 2024**



**DIRECTORATE OF LEGISLATIVE AND PROCEDURAL SERVICES  
CLERK'S CHAMBERS  
MAIN PARLIAMENT BUILDINGS  
NAIROBI**



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## ACRONYMS

TSC	-	Teachers Service Commission
CBS	-	Chief of the Burning Spear
CEO	-	Chief Executive Officer
PTA	-	Parents-Teachers Association
KNUT	-	Kenya National Union of Teachers
KUPPET	-	Kenya Union of Post Primary Education Teachers
NGOs	-	Non-Governmental Organizations



**CHAIRPERSON’S FOREWORD**

On behalf of the Public Petitions Committee and pursuant to the provisions of Standing Order 227, it is my pleasant privilege and honour to present to this House the Report of the Committee on the Public Petition No. 07 of 2023 regarding the Gazettement of Rachuonyo North as a hardship area. The petition was presented to the House pursuant to Standing Order No. 225 (2) (b) by the Speaker on 2<sup>nd</sup> March, 2023.

The Petitioner prayed that the National Assembly through the Public Petitions Committee recommends to the relevant Ministry/Agencies to gazette Rachuonyo North Sub-County as a hardship area and award hardship allowance to teachers and other civil servants.

The Committee considered the Petition and observed that the Ministry of Public Service, Performance & Delivery Management had constituted an Inter-Agency Technical Committee Constitution to address disparities regarding hardship areas across the public service and promote fairness, and ensure parity of treatment among public servants.

The Committee recommends that the Ministry of Public Service, Performance and Delivery Management fast-tracks the review of relevant policies with a view to designate all regions meeting the set out criteria as hardship areas; and submit the report to the National Assembly within three (3) months upon tabling of this report and that the Ministry of Public Service, Performance and Delivery Management reviews the categorization and gazettement of hardship areas every ten years.

The Committee appreciates the Offices of the Speaker and Clerk of the National Assembly for providing guidance and necessary technical support without which its work would not have been possible. The Chairperson expresses gratitude to the Committee Members for their devotion and commitment to duty during the consideration of the Petition.

On behalf of the Committee and pursuant to the provisions of Standing Order 199, I now wish to lay the Report on the Table of the House.



**HON. NIMROD MBITHUKA MBAI, M.P.**  
**CHAIRPERSON, PUBLIC PETITIONS COMMITTEE**

Date.....11/6/2024.....





## PART ONE

### 1. PREFACE

#### 1.1. Establishment and Mandate of the Committee

The Public Petitions Committee is established pursuant to the provisions of Standing Order 208A and is mandated to:

- a) consider all public petitions tabled in the House;
- b) make such recommendations as may be appropriate concerning the prayers sought in the petitions;
- c) recommend whether the findings arising from consideration of a petition should be debated; and
- d) advise the House and report on all public petitions committed to it.



## 1.2. Committee Membership

The Public Petitions Committee was constituted in October 2022 and comprises of the following Members:

### Chairperson

Hon. Nimrod Mbithuka Mbai, M.P.  
Kitui East Constituency  
**United Democratic Alliance (UDA)**

### Vice Chairperson

Hon. Janet Jepkemboi Sitienei, M.P.  
Turbo Constituency  
**United Democratic Alliance (UDA)**

Hon. Patrick Makau King'ola, M.P.  
Mavoko Constituency  
**Wiper Democratic Movement-Kenya**  
**(WDM-K)**

Hon. Edith Vethi Nyenze, M.P.  
Kitui West Constituency  
**Wiper Democratic Movement-Kenya**  
**(WDM-K)**

Hon. Ernest Kivai Ogesi Kagesi, M.P.  
Vihiga Constituency  
**Amani National Congress (ANC)**

Hon. Maisori Marwa Kitayama, M.P.  
Kuria East Constituency  
**United Democratic Alliance (UDA)**

Hon. Joshua Chepyegon Kandie, M.P.  
Baringo Central Constituency  
**United Democratic Alliance (UDA)**

Hon. John Walter Owino, M.P.  
Awendo Constituency  
**Orange Democratic Movement (ODM)**

Hon. Bernard Muriuki Nebart, M.P.  
Mbeere South Constituency  
**Independent**

Hon. Bidu Mohamed Tubi, M.P.  
Isiolo South  
**Jubilee Party (JP)**

Hon. Caleb Mutiso Mule, M.P.  
Machakos Town Constituency  
**Maendeleo Chap Chap Party (MCCP)**

Hon. John Bwire Okano, M.P.  
Taveta Constituency  
**Wiper Democratic Movement-Kenya**  
**(WDM-K)**

Hon. Peter Mbogho Shake, M.P.  
Mwatate Constituency  
**Jubilee Party (JP)**

Hon. Sloya Clement Logova, M.P.  
Sabatia Constituency  
**United Democratic Alliance (UDA)**

Hon. Suzanne Ndunge Kiamba, M.P.  
Makueni Constituency  
**Wiper Democratic Movement-Kenya**  
**(WDM-K)**



### **1.3. Committee Secretariat**

The following secretariat facilitates the Public Petitions Committee:

**Lead Clerk**  
**Mr. Ahmed Kadhi**  
**Senior Clerk Assistant**

**Ms. Miriam Modo**  
**First Clerk Assistant**

**Ms. Anne Shibuko**  
**First Clerk Assistant**

**Ms. Patricia Gichane**  
**Legal Counsel II**

**Ms. Roselyne Njuki**  
**Serjeant at Arms**

**Mr. Calvin Karungo**  
**Media Relations Officer**

**Mr. Willis Obiero**  
**Third Clerk Assistant**

**Mr. Martin Sigei**  
**Research Officer III**

**Mr. Isaac Nabiswa**  
**Legal Counsel II**

**Mr. Paul Katana**  
**Serjeant-At-Arms**

**Mr. Peter Mutethia**  
**Audio Officer**



## PART TWO

### 2. BACKGROUND OF THE PETITION

#### 2.1. INTRODUCTION

1. Public Petition No. 07 of 2023 regarding the Gazettement of Rachuonyo North Sub-County as a hardship area was conveyed to the House by the Honourable Speaker on behalf of Mr. Fredrick Gaya, the Director of YEBO Africa and the residents of Rachuonyo North Sub-County on 2<sup>nd</sup> March, 2023.
2. The Petitioner averred that the prevailing hardship conditions in Rachuonyo North Sub-County have a direct result of dire poverty levels in the area adversely affecting both teachers and learners.
3. Schools in Rachuonyo North Sub-County are understaffed with poorly motivated teachers who have been denied hardship allowance whilst providing the same facilities Page 3 of 6 to Suba North and Suba South sub-counties even though all three sub-counties are located in Homa Bay County.
4. The plights plaguing Rachuonyo North Sub-County are exemplified by a lack of factories, barren sandy soils, rugged and rocky terrain, poor rainfall, perennial floods and devastating poverty that continues to affect education standards in the area.

#### 2.2 PETITIONER'S PRAYERS

The Petitioner prayed that the National Assembly through the Public Petitions Committee-

- **Classifies and gazettes Rachuonyo North Sub-County as a hardship area and awards hardship allowance to teachers and other civil servants.**

## PART THREE

### • 3.0 STAKEHOLDERS' SUBMISSIONS ON THE PETITION

#### 3.1 SUBMISSIONS BY THE PETITIONER, MR. FREDRICK GAYA

On Thursday, 6<sup>th</sup> July, 2023, Mr. Fredrick Gaya, the Director of YEBO Africa, accompanied by two other petitioners appeared before the Committee and submitted as follows -

5. Rachuonyo North Sub-County is vast and covers a geographical area of approximately 435.4 sq km with a population of 178,686 people and a density of 410 persons per sq km.
6. The area is highly inaccessible due to the rugged and hilly terrain and dilapidated road networks across the sub-county, which hampers the movement of students to and from school.
7. The climatic conditions are very harsh, leading to a high prevalence of food shortages, malnutrition among school-going children, and other related problems associated with food security.
8. Perennial floods have had detrimental effects on the lower plains of Lake Victoria, River Sondu Miriu, Awach Kibuon, Ondhedhe, and Tende during the short rainy seasons, occasioning loss of lives and livestock, destruction of crops, grazing land, power interruptions, closure of schools, and other atrocities.
9. The area also experiences limited access to clean water. The harsh climatic conditions have led to water scarcity, making it difficult for the residents to access clean and safe drinking water. This can result in waterborne diseases, poor health outcomes, and increased healthcare costs, further exacerbating poverty levels.
10. The high prevalence of HIV/AIDS in the area has often resulted in a high poverty index due to the impact of the disease on the ability of affected individuals to work, earn a living and support their families leading to a decline in economic well-being and increased risk of poverty. Further, most children are left orphaned and unable to attend school.
11. Due to the hardships and obstacles faced, the Sub-County has experienced an acute teacher shortage and an uneven staffing situation. The infrastructure of most schools is deplorable and unsafe for learning. The situation leads to teachers requesting transfers to other places with better working conditions and



those who remain are generally demoralized and this can negatively impact learning.

12. Most schools in Rachuonyo North Sub-County lacked last-mile connectivity to electricity, putting digital learning at a disadvantage, especially given the growing need for e-learning and technological advancements.
13. Most parts of the Sub-County lack clean and safe water for drinking and hence are prone to contracting waterborne diseases and other related illnesses.

### **3.2 SUBMISSIONS BY THE KENYA NATIONAL UNION OF TEACHERS (KNUT), RACHUONYO NORTH BRANCH**

On Wednesday, 30<sup>th</sup> August, 2023, the Chairperson, Kenya National Union of Teachers (KNUT) Rachuonyo North Branch, Mr. Patrick Were Onyango accompanied by Mr. Joshua Okinda and Mr. Peter Obilo appeared before the Committee and submitted as follows: -

14. Rachuonyo North Sub-County is on the Eastern side of Homa-Bay County. It borders Rangwe Sub-County to the West, Rachuonyo South to the South, Rachuonyo East to the South East, Kisumu County (Nyakach) to the East and a very long stretch of Lake Victoria to the length of the entire North.
15. The hardship allowance extends beyond just financial incentives; it serves as a lifeline for teachers grappling with varied and unique adversities. It provides a monthly reprieve while honouring the unwavering dedication of educators who choose where these challenges abound.
16. Supporting teachers in hardship zones transcends the classroom; it empowers the entire community. Education, especially in such areas, forms the bedrock of progress, and these educators play a pivotal role in extending knowledge to remote, marginalized, nomadic, hard-to-staff areas. In Rachuonyo North, a big percentage are fishing nomads. The essence of Hardship Allowance is investing in a brighter, more equitable future.
17. Rachuonyo North Sub-County experiences conditions that are congruent with those areas that have been awarded and gazetted as Hardship zones. They are but not limited to: -
  - a) *Limited basic social services and amenities* - attempts have been made to increase the number of schools in Rachuonyo North to increase accessibility, and retention of learners in schools. Many schools have been started based on clans. However, the classrooms are in a pathetic state and most of them have mud floors. Teachers are not comfortable teaching in this region thereby

affecting the performance of students and the transition rate to institutions of higher learning.

- b) *Insecurity and high possibility of security threats* - the poverty index in Rachuonyo North stands at an average of 48.4%. This has led to high insecurity through thuggery, robbery and theft, posing a serious challenge to the teachers and the rest of the workforce who are most vulnerable. Since they are not very familiar with the locals. Increased cases of defilement have also resulted in most teenage pregnancies. Many teachers have in turn run away in search of safer areas and the remaining lot have thus remained vulnerable to insecurity.
- c) *Persistent harsh climatic conditions like flooding, landslides and drought* - every rainy season, many parts of Rachuonyo North are prone to floods. Schools that are on little-raised grounds are used as rescue sites during which no learning takes place. The most affected schools when River Sondu Miriu breaks its banks include Osodo, Kobuya, and Kobala of Miriu Zone, and when River Awach breaks its banks and the Alego Kamser Swamp Kimira, Kibugu, Lieta and Ngeta of Nyakongo Zone, Bala area of Kandiege Zones. During the entire flooding period, schools were not in operation in such areas as both pupils and teachers were also in the makeshift camps in the schools. Here, they either wait for relief food or donated blankets in the mosquito-infested stagnant floods.

Frequent landslides have led to the falling of all electricity poles leaving the area in darkness. Teachers are reluctant to teach in schools in the area due to the absence of facilities such as electricity.

- d) *Inaccessibility to food* - the main economic activity in the area is fishing. The amount and size of fish have gone down drastically due to overfishing. In addition, invasion of the lake by water hyacinth has led to inaccessibility to the fish. To handle the challenges, children go fishing overnight even during school days and are sleepy and tired when they attend school, thereby affecting their concentration on studies.

The other source of living is sand mining which is carried out along the lake, along the river banks and on lands which are predominantly sandy. These have left very ugly sites of pits which are at times filled with water to be breeding sites for mosquitoes. The lands have been over mined to the extent that no agriculture can take place leading to inaccessibility to food. The Kobala, Kobuya, and Kamwala areas of the Miriu Zone, the Kajiei area of the Rambira Zone and the Miti Mbili area of the Pala and Homa Zones are prone to these.

Harsh climatic conditions where the rains have become very unpredictable, and the poor soils which are mostly sandy have seriously affected crop yields. For the last 7 years or so, the region has not had any substantive harvest. When it rains, the majority of areas have their crops flooded seriously destroying the crops as in the Osodo area of Miriu Zone, Kimura, Kibugu, and Osika areas of Nyakongo zones.

All the 9 zones have a common border with the lake, since Rachuonyo North has the longest coastline in Nyanza. Residents who do farming along the long stretch of the lake have had their crops destroyed by hippos. The hippos are herbivores and the persistent drought has made it difficult to access food too, thereby, having the food crops along the lake as their source of food.

- e) *Lack of clean water*- shortage of water has been and is still a constant menace to the people of Rachuonyo North. There are three major rivers; River Sondu Miriu at the Eastern border with Kisumu County, River Oluch at the border with Rangwe and River Awach passing through Kendu Zone into Lake Victoria.

Most schools use rain catchment water, which going by the harsh climatic conditions, is very irregular. The most hit areas are the Apuko area of Miriu Zone, Obangla and Gungu area of Rambira Zone, Ngoche, Bware, Makaka area of Kendu Zone, Bongia area of Nyakongo Zone, Wikondiek, Wimagak, Rabware areas of Omboga Zone, Omindu, Rabuor, God Ndonyo area of Kandiege Zone, Adhiro, Otaru area of Pala Zone, Kodula, Dhok Mit area of Got Oyaro zone and the Homa Hills area of Homa Zone.

Children have to carry water every day in tins to be used at school by both teachers and learners vendors who get the water from the polluted and water hyacinth-infested lake

- f) *Inadequate transport and communication network* - Rachuonyo North Sub-County has one major tarmac road running from Nyakwere in the Miriu zone, through Rambira, Kendu, Nyakongo and Kandiege zones at the Nyangweso border with Rangwe Sub-Counties, the other one running from Kendu-Bay to Mawego. The rest of the road network is barely accessible. This cuts across all the 9 zones of Rachuonyo North.
- g) *Inadequate teacher staffing* - inaccessibility to food, poor infrastructure, and the rough terrain especially in the upper parts of the Sub-County, has resulted in teachers preferring to be posted to the neighbouring Sub-Counties that have been gazetted as hardship zones. These areas include Suba Central, Suba North, Suba South (all in Homa-Bay County), Homa-Bay Sub-County, which

enjoy enhanced House Allowance as it is a former major Municipality, and Nyakach and Muhoroni Sub-Counties of Kisumu County.

Teachers who were delocalized to the fertile and high rainfall Kisij, Nyamira and parts of Migori counties and hardship Suba, Muhoroni and Nyakach have refused to be rerouted back to Rachuonyo North. In Primary schools, the ratio of teachers to pupils stands at 1;80 while in Secondary schools, it stands at 1:75. Gazetting the area as a hardship area would attract teachers to the area and would to a large extent reduce understaffing.

- h) HIV Prevalence* - the Sub-County has the longest coastline of Lake Victoria. The beaches attract fishermen and fishmongers from different parts of the country and even beyond. These are recipes for anti-social and moral decadence. The population of school-going children is big around these areas and so is the working force mostly teachers. The County of Homa-Bay, where Rachuonyo North is part and parcel, has an HIV/AIDS prevalence of nearly 4.5 times higher than the national prevalence at 26.0%. The County contributed 15.10% and 14.0% of the total new HIV/AIDS infections among children and adults respectively.
- i) High occurrence of teenage pregnancy* - according to the Kenya Demographic and Health Survey Report, the county has a 24% prevalence of teen pregnancies, among the top 3 counties in Kenya. Rachuonyo North contributes a bigger percentage of the pregnancies. These have seriously negatively affected the lives of learners and teachers who are expected to ensure that teenagers attend school to completion. It was reported that sex pests take advantage of the vulnerability and poverty of the girls and lure them into sexual intercourse at such tender ages. It takes resilience for a teacher to model a child's parent.
- j) Neighbourhood counties getting Hardship Allowance* - the 9 Sub-Counties in Homa Bay County share common demographics. Rachuonyo North shares several features with Suba North, Suba Central and Suba South since the communities living in these areas are fishing nomads, who move from one place to the other in search of fish and often stray into Uganda and Tanzania waters. This has often put the fishermen at loggerheads with Uganda over the fishing grounds. The 3 Suba Sub-Counties have been mapped out and gazetted as hardship zones yet the Rachuonyo North has remained isolated. Teachers are seeking transfers to Suba and leaving Rachuonyo North in droves.

Rachuonyo North borders Nyakach Sub-County to the East. In terms of climate, the two Sub-Counties share similar characteristics and so is the terrain. Nevertheless, the Sondu and Nyabondo areas of Nyakach have more economic potential.

Nyakach has just a small stretch of Lake Victoria, yet Rachuonyo North has over 40km stretch as the lake borders the entire northern part of Rachuonyo North. Nyakach had been mapped out and gazetted as a Hardship zone and so has the Muhoroni in Kisumu County which is partly a sugar-belt. Most of our teachers have run to Nyakach, and others have gone up to Muhoroni to benefit from the Hardship Allowance leaving Rachuonyo North understaffed.

k) Given these, the only way to mitigate Rachuonyo North from such unique and diverse factors is to map it out and accept its gazettelement as a Hardship zone.

18. The National Council for Nomadic Education in Kenya (NACONEK) via a letter dated 17<sup>th</sup> July 2023 written to the County Director of Education Homa-Bay addressed to Ndhiwa, Rachuonyo North and Suba Sub-Counties on the distribution of fortified composite instant uji flour for drought intervention schools. The inclusion of Rachuonyo North together with Suba Sub-Counties is a clear indicator that it falls among the vulnerable Hardship areas of Homa-Bay County.

19. The Petitioner concluded his submissions by requesting the Committee to fast-track the legislative process to consider mapping out Rachuonyo North Sub-County as a Hardship area upon examining the factors mentioned and others that were not mentioned in this document.

### 3.3 SUBMISSIONS BY THE TEACHERS SERVICE COMMISSION

On Wednesday, November, 15, 2023, the Chief Executive Officer of the Teachers Service Commission, Dr. Nancy Macharia, appeared before the Committee and submitted as follows -

20. That under the 2010 Constitution of Kenya, the Teachers Service Commission (TSC) has no legal mandate to gazette any area as a hardship. The mandate to designate an area as a hardship area vests with the Ministry of Public Service, Performance and Delivery Management.
21. Regulation 91 of the Code of Regulations for Teachers requires the Commission to pay hardship allowance to a teacher assigned to teach in a school situated in a designated and gazetted hardship area.
22. The designated hardship areas were gazetted in Legal Notice 534 of 1997. In Homa Bay County, the gazetted areas were Mfangano and Rusinga Islands in Suba North. Rachuonyo North is not gazetted as a hardship area.

### 3.4 SUBMISSIONS BY THE PARENTS ASSOCIATION, RACHUONYO NORTH SUB-COUNTY

Vide a letter dated Tuesday, 31<sup>st</sup> October, 2023, the Chairperson of the Parents Association, Rachuonyo North Sub-County forwarded written submissions and stated as follows -

23. Rachuonyo North Sub-County undergoes a myriad of challenges around health issues as it is cognizant that it has suffered the consequences of the AIDS pandemic more than any sub-counties in Kenya. This has often sent negative and prohibitive signals to the teachers posted by TSC to the Sub-County. As such, the consequence is a shortage of enough teachers in the area to establish an equitable teacher-pupil and teacher-student ratio.
24. On the economic and commercial front, the Sub-County lacks cash crops to generate cash flow with the extinction of cotton production and ginning. In essence, the high levels of poverty have resulted in a lack of security for anyone wishing to take up teaching job in the area.
25. The poor rainfall regime and unpredictable weather conditions have subjected Rachuonyo North Sub-County to a famine zone in the Republic of Kenya. This has made it a net importer of all food including the staple maize. With this kind of net importation of foodstuff and limited salaries paid to the teachers, none is willing to be posted to this area to plunge into further economic doom because foodstuff across the board is very expensive.
26. In the context of unpredictable rain patterns, which typically occur during rainy seasons, havoc is generated as a result of uncontrolled floods that displace both the community and the teaching staff, exposing their lives to a high level of health hazards as well as personal security.
27. Rachuonyo North Sub-County lacks accessible banking facilities compared to other sub-counties. This requires teachers to travel considerable distances to access banking services in Homa-Bay, Oyugis, or Kisumu, adding to the economic challenge of transportation costs caused by the high cost of petrol.
28. Due to the risk of malaria and cholera during floods, many teachers are hesitant to volunteer in this area.
29. In the absence of commercial and economic opportunities, the local population may view teaching as an alternative source of income, leading to a high dependency ratio that discourages potential teachers in the area.

30. There is prevalence of human-wildlife conflict involving attacks by crocodiles and hippos along the lake and the rivers around the area causing fear for teachers and other civil servants posted in the area.



### **3.5 SUBMISSIONS BY THE MINISTRY OF EDUCATION**

Vide a letter Ref: MOE/SDHER/HRM/CON/14/7 and dated 25<sup>th</sup> October, 2023, the Cabinet Secretary, Ministry of Education, Hon. Ezekiel Machogu, EGH, availed written submission as follows -

31. Rachuonyo North Sub-County was not designated as a hardship area, yet the area is facing a lot of challenging circumstances. As a result, teachers are demotivated and seeking transfers to schools in surrounding areas, such as Suba North and Suba South, which are eligible for hardship allowances.
32. The Teachers Service Commission, as an implementing institution, then pays hardship allowances for areas designated hardship areas by the Ministry of Public Service, Performance and Delivery Management. Regulation 91 of the Code of Regulations for Teachers mandates the Teachers Service Commission to pay a hardship stipend to a teacher assigned to teach in a school located in a designated and gazetted hardship zone.
33. Legal Notice No. 534 of 1997 identified designated hardship areas in Homa Bay County, which comprised Mfangano and Rusinga Islands in Suba Sub-County and excluded Rachuonyo North Sub-County.
34. The Ministry of Public Service, Performance and Delivery Management is responsible for mapping and gazetting hardship areas and the Ministry of Education has referred the petition to the Cabinet Secretary for action. Once the Ministry designates it as a hardship area, the Teachers Service Commission will pay the necessary hardship allowance.

### **3.6 SUBMISSIONS BY THE PUBLIC SERVICE COMMISSION**

Vide a letter Ref: PSC/ADM/26/11(53) dated 24<sup>th</sup> October, 2023, the Chief Executive Officer for the Public Service Commission, Dr. Simon K. Rotich, CBS, availed written submission and stated as -

35. The Public Service Commission acknowledged the fact that there have existed disparities in the designation of hardship areas in the country and there was need to wholesomely address them.
36. The Commission was alive to the numerous petitions to parliament by various groups in the country on disparities and payment of hardship allowances across the country.

37. In the year 2018, the Commission initiated action to address the discrepancy by requesting the then Ministry of Public Service, Youth and Gender Affairs, vide letter **REF NO:PSC/HRM/12/IV** dated 3<sup>rd</sup> September, 2018, to consider establishing an inter-agency team to undertake the review of hardship areas across the country.
38. As a result, an inter-agency team was constituted by the Ministry of Public Service, Performance and Delivery Management to review the policy on current designated hardship areas and allowances for the Civil Service and wider Public Service to ensure harmony. The review sought to harmonize the categorization of hardship areas and eligibility for hardship allowances by addressing the disparities and inequalities existing in the hardship policies currently in use in the public service.
39. The inter-agency team convened by the Ministry of the Public Service, Performance and Delivery Management comprised of the National Treasury, Ministry of Education, Teachers Service Commission (TSC), the Judiciary, Council of Governors, State Department for Planning, Kenya National Bureau of Statistics (KNBS), Commission on Revenue Allocation (CRA), Ministry of Interior and National Administration and Salaries and Remuneration Commission (SRC), developed weighted criteria for re-examining hardship areas after visiting the areas that had been proposed by various government agencies for designation as hardship.
40. The team reviewed the criteria for the determination of hardship areas as guided by the Kenya Bureau of Statistics and Commission on Revenue Allocation and developed the following parameters for the gazettelement of a hardship area:
- (i) Availability and accessibility to food;
  - (ii) Availability and accessibility to quality potable water;
  - (iii) Climatic conditions;
  - (iv) Availability of basic social services and amenities;
  - (v) Transport and Communication services;
  - (vi) Security situation and possibility of security threats; and
  - (vii) Poverty index.
41. The team further visited various parts of the country and used the tool to collect data from the ground to determine the current hardship areas across the country.
42. The team further analyzed the data collected and prepared a report with areas proposed for retention as hardship areas, areas to be expunged from hardship considerations and any proposed areas for inclusion in the list of hardship areas.

43. The Ministry of Public Service, Performance and Delivery Management prepared a Cabinet Memo on the findings of the exercise to enable consideration by the Cabinet as a policy guide on approved hardship areas across the country for implementation by all affected institutions and stakeholders.

### **3.7 SUBMISSIONS BY THE MINISTRY OF PUBLIC SERVICE, PERFORMANCE AND DELIVERY MANAGEMENT**

Vide a letter, Ref. No. MP&DM/3/7 and dated 20<sup>th</sup> March, 2024, the Cabinet Secretary, Ministry of Public Service, Performance & Delivery Management, Hon. Moses Kuria, HSC forwarded written submissions and stated as follows -

44. The Government takes cognizance of the existing disparities in designated hardship areas in the public service.
45. To address these disparities across the Public Service and promote fairness, ensure parity of treatment among Public Servants, the Government constituted an Inter-Agency Technical Committee comprised of representatives from the Ministry responsible for Public Service, Ministry of Interior and National Administration, Ministry of Education, The National Treasury and Economic Planning, the Judiciary, Public Service Commission, Teachers Service Commission, Salaries and Remuneration Commission, the Kenya National Bureau of Statistics (KNBS) and the Council of Governors.
46. The Terms of Reference for the Committee was as follows -
  - (i) Study the current policies and applicable Circulars on Designated Hardship areas and payment of Hardship Allowance in the Civil Service;
  - (ii) Undertake a comparative analysis of other existing policies on Designated Hardship Areas and payment of Hardship Allowance in the Public Service and other jurisdictions;
  - (iii) Study the issues in petitions presented to the National Assembly on the matter of Designated Hardship Areas and payment of Hardship Allowance to Public Servants;
  - (iv) Study concerns raised by the Union of Kenya Civil Servants (UKCS) regarding Designated Hardship Areas and payment of Hardship Allowance as provided in the Collective Bargaining Agreement (CBA), 2017;
  - (v) Address any other issues incidental to the matter on Designated Hardship Areas and payment of Hardship Allowance; and
  - (vi) Prepare a Report on the study with recommendations and way forward on the categorization of Designated Hardship Areas and payment of Hardship Allowance.
47. The report on the review of designated hardship areas and rates for hardship allowances has been submitted to the Salaries and Remuneration Commission (SRC) for consideration. Once a response is received from SRC, the report will then be forwarded to Cabinet for approval.

48. Designated hardship areas in the Public Service for purposes of payment of hardship allowance are remote areas categorized as lacking or having inadequate basic social services, amenities and infrastructure.
49. Prior to 1997, the Civil and Teaching Services had similar designated Hardship Areas, which included the former North Eastern Province (Wajir, Mandera & Garissa), Samburu, Isiolo, Lamu, Marsabit, Tana River, West Pokot, Turkana and Northern area of Baringo. This comprised eleven (11) fairly distinct hardship areas.
50. Designation of such areas was undertaken in consultation with the Office of the President - the then Directorate of Personnel Management and Provincial Administration and Internal Security.
51. In 1997, the Minister for Education through Legal Notice No. 534 of 11<sup>th</sup> November, 1997 Gazetted an additional twenty-five (25) Hardship Areas for the Teaching Service following a recommendation by the Teachers Service Remuneration Committee. This followed a Collective Bargaining Agreement (CBA) with the Kenya National Union of Teachers. The recommendation was based on the agreement that teachers work in more remote areas as compared to Civil Servants who are mostly posted to District and Divisional Headquarters.
52. In 2005, the number of designated Hardship Areas for the Teaching Service was increased from thirty-six (36) to forty-four (44) based on the CBA between TSC and the Union.

53. Currently, the Civil Service (National and County Governments) have sixteen (16) Designated Hardship Areas while the Judiciary has twenty-one (21) areas designated as hardship based on the location of the law courts as indicated in Table 1 below -

COMPARISON OF HARDSHIP-DESIGNATED AREAS IN PUBLIC SERVICE						
Civil Service/ Parastatal	Status	Judicial Service Commission	Status	Teachers Service Commission	Status	
1 Tana River	Entire County	1. Daadab	Town/Centre	1 Suba	Mfangano and Rusinga Islands	
2 Lamu	Entire County	2. Garissa	Town/Centre	2 Kuria	Kegonga Division	
3 Garissa	Entire County	3. Garsen	Town/Centre	3 Busia	Budalangi Division	
4 Wajir	Entire County	4. Habaswein	Town/Centre	4 Kajiado	Entire District	
5 Mandera	Entire County	5. Hola	Town/Centre	5 Nakuru	Mbogoini and Makongeni Divisions(lower Solai)	
6 Marsabit	Entire County	6. Kabarnet	Town/Centre	6 Laikipia	Entire District	
7 Isiolo	Entire County	7. Kakuma	Town/Centre	7 Kitui	Entire District	
8 Makueni	Entire County	8. Kapenguria	Town/Centre	8 Kilifi	Ganze Division	
9 Turkana	Entire County	9. Kehancha	Town/Centre	9 Keiyo	Entire District	
10 West Pokot	Entire County	10. Kyuso	Town/Centre	10 Marakwet	Entire District	
11 Samburu	Entire County	11. Lamu	Town/Centre	11 Kwale	Kinango and Samburu Divisions	
12 Elgeyo	Entire County	12. Lodwar	Town/Centre	12 Trans Mara	Entire District	
13 Laikipia	Entire County	13. Mandera	Town/Centre	13 Mwingi	Entire District	
14 Baringo	Excludes Koibatek Sub-county	14. Mararal	Town/Centre	14 Tharaka	Entire District	
15 Nandi	Tinderet Sub-County only	15. Marimanti	Town/Centre	15 Mbeere	Entire District	
16 Taita Taveta	Manyani Area in Ngolia Ward	16. Marsabit	Town/Centre	16 Malindi	Magarini,Marafa and Kakoneni Division	
<b>Total: 16 Areas</b>		17. Moyale	Town/Centre	17 Machakos	Yatta and Masinga Division	
		18. Mutomo	Town/Centre	18 Nyeri	Kieni Division	
		19. Mwingi	Town/Centre	19 Kiambu	Ndeiya and Karai locations	
		20. Taveta	Town/Centre	20 Maragwa	Makuyu Division	
		21. Wajir	Town/Centre	21 Nyandarua	Nyahururu High school	
		<b>Total: 21 Areas</b>		22 Nyandarua	Nyandarua Boarding Primary Divisions	
				23 Kericho	Divisions	
				24 Kisumu	Muhoroni Valley and Sondu Divisions	
				25 Thika	Kakuzi Division	
				26 Koibatek	King'orom Divisions	
				27 Narok	Eastern Mau, Osupuko, Mara, Loita and Southern Olulunga Divisions	
				28 Makueni	Entire District	
				29 Isiolo	Entire District	
				30 Moyale	Entire District	
				31 Marsabit	Entire District	
				32 Garissa	Entire District	
				33 Mandera	Entire District	
				34 Wajir	Entire District	
				35 Lamu	Entire District	
				36 Tana River	Entire District	
				37 Taita Taveta	Entire District	
				38 Baringo	Entire District	
				39 Samburu	Entire District	
				40 Turkana	Entire District	
				41 West Pokot	Entire District	
				42 Ijara	Entire District	
				43 Nandi	Tinderet Division	
				44 Meru North (Nyambene)	Mutuati,Ndolesi and Igembe East Divisions; Buuri, Giika locations; Linjoka, Ankamia Sub -locations; Amung'enti, Thangatha, Mumui, Kiujuline and Akithi zones	
				<b>Total: 44 Areas</b>		

Source: Ministry of Public Service, Performance & Delivery Management

54. Rachuonyo North Sub County in Homa Bay County was not designated as a hardship area for purposes of payment of hardship allowance of both civil service/parastatals, Judicial Service Commission (JSC) and Teachers Service Commission (TSC).

55. The Kenya National Bureau of Statistics (KNBS) identified and weighted seven (7) parameters to guide the determination and re-categorization of hardship areas including food, water, transport and communication services, social services, climate and terrain, security and poverty index as indicated in Table 2 below -

S/No	Criterion	How to Give Full Mark	Weight
1.	<b>Food - Unavailability and Inaccessibility</b>		<b>25</b>
	i. Area on (perpetual) relief food	Yes	5
	ii. Availability of marketplace	None	5
	iii. Average Distance to food markets	Long	5
	iv. Cost of food expensive	High	5
	v. Low agricultural productivity of the area/ supply of food	Low	5
2.	<b>Water - Unavailability and Inaccessibility</b>		<b>15</b>
	i. Availability of piped water	None	3
	ii. The area gets water from seasonal rivers/boreholes/springs	Yes	3
	iii. The area has a permanent river	None	3
	iv. Private water tanks/vendor supply water to the area	Yes	3
	v. Average Distance to water point	Long	3
3.	<b>Transport and Communication Service - Inadequacy</b>		<b>20</b>
	i. Availability/Distance of tarmac roads	None	4
	ii. Availability/Distance of all-weather roads	None	4
	iii. Mobile phone connectivity	None	4
	iv. Availability/Reliability of mode of public transport	None	4
	v. Roads impassable during the rainy season	Yes	4
4.	<b>Social Services - Unavailability and Inaccessibility</b>		<b>15</b>
	i. Schools are available/Distance	None	3
	ii. Availability/Average Distance of Bank/Postal services	None	3
	iii. Availability/Distance of hospitals/health facilities	None	3
	iv. Electricity available	None	3
	v. Housing for Public Servants / Availability of housing facilities	None	3
5.	<b>Climate and Terrain - Harshness</b>		<b>15</b>
	i. The area dries with erratic rainfall	Yes	5
	ii. The area gets flooding during the rainy season	Yes	2.5

	iii. The region is hot and dry	Yes	2.5
	iv. The region is semi- arid	Yes	2.5
	v. Difficult terrain (mountainous with deep gullies)	Yes	2.5
6.	Security - High Possibility of Threats		5
	i. Human wildlife conflict	Yes	2.5
	ii. Banditry / cattle rustling	Yes	2.5
7.	Poverty - Severity	High Index	5
	<b>TOTAL</b>		<b>100</b>

Source: Kenya National Bureau of Statistics (KNBS)

56. The determination of designation of the specified areas as hardship and payment of hardship allowance shall be done upon approval by the Salaries and Remuneration Commission and the Cabinet.

57. Currently, Rachuonyo North Sub-County is not designated as a hardship area for payment of hardship allowance.



## PART FOUR

### 4.0 COMMITTEE OBSERVATIONS

Upon hearings from the Petitioner and other stakeholders, the Committee observed that-

58. The Ministry of Public Service, Performance & Delivery Management had constituted an Inter-Agency Technical Committee to address disparities regarding hardship areas across the public service to promote fairness and ensure parity and equal treatment among public servants.
59. The Kenya National Bureau of Statistics (KNBS) had identified and weighted seven (7) parameters to guide the determination and re-categorization of hardship areas including food, water, transport and communication services, social services, climate and terrain, security and poverty index.
60. Rachuonyo North Sub-County has high levels of poverty, poor infrastructure, low access to clean water, low connectivity to electricity, inadequate teacher staffing and has prevalence of human-wildlife conflict among others.
61. Rachuonyo North Sub-County is not classified as a hardship area yet the neighbouring sub-counties sharing common demographics with it are receiving hardship allowances.

## PART FIVE

### 5.0 ANALYSIS OF ISSUES FOR DETERMINATION

The Committee makes a determination on the issues raised in the Petition and notes that-

62. Article 10 of the Constitution binds all state organs, state officers, public officers and all persons to adhere to the national values and principles of governance including equity, social justice, equality, human rights, non-discrimination and protection of the marginalised.
63. The Ministry of Public Service, Performance and Delivery Management has established an Inter-Agency Technical to address existing disparities regarding the gazettelement of hardship areas to facilitate payment of hardship allowance to civil servants.
64. The designation of hardship areas in the public service for purposes of payment of hardship allowance relied on the seven (7) parameters to guide the determination and re-categorization of hardship areas including food, water, transport and communication services, social services, climate and terrain, security and poverty index as identified by Kenya National Bureau of Statistics (KNBS).
65. The determination of designation of the specified hardship areas and subsequent payment of hardship allowances for civil servants is concluded upon consideration by the Salaries and Remuneration Commission (SRC) and approval by the Cabinet.

## PART SIX

### 6.0 COMMITTEE RECOMMENDATIONS

Pursuant to the provisions of Standing Order 227, the Committee recommends as follows-

In response to prayer that the Committee recommends to the relevant Ministry/Agencies to classify and gazette Rachuonyo North Sub-County as a hardship area and award hardship allowance to teachers and other civil servants, the Committee recommends that-

66. The Ministry of Public Service, Performance and Delivery Management fast-tracks the review of relevant policies with a view to designate all regions meeting the set out criteria as hardship areas; and submit the report to the National Assembly within three (3) months upon tabling of this report.
67. The Ministry of Public Service, Performance and Delivery Management reviews the categorization and gazettement of hardship areas every ten years.
68. Pursuant to the provisions of Standing Order 208A(c), the findings arising from the consideration of this Petition be debated by the House.

Signed: \_\_\_\_\_



Date: \_\_\_\_\_



**THE HON. NIMROD MITHUKA MBAI, M.P.**  
**CHAIRPERSON, PUBLIC PETITIONS COMMITTEE**

## ANNEXURES

- Annex 1: The Adoption List
- Annex 2: Public Petition No. 07 of 2023 regarding Gazettement of Rachuonyo North as a hardship area
- Annex 3: Minutes of the 37<sup>th</sup> Sitting held on Thursday, 6<sup>th</sup> July, 2023
- Annex 4: Minutes of the 56<sup>th</sup> Sitting held on Wednesday, 30<sup>th</sup> August, 2023
- Annex 5: Minutes of the 32<sup>nd</sup> Sitting held on Wednesday, 22<sup>nd</sup> May, 2024
- Annex 6: Letter Ref:PSC/ADM/26/11(36) dated 29<sup>th</sup> August, 2023 by the Public Service Commission.
- Annex 7: Letter Ref:MOE/SDHER/HRM/CON/14/7 dated 25<sup>th</sup> October, 2023 by the Ministry of Education.
- Annex 8: Letter Ref: MPSG&DM/3/7 dated 20<sup>th</sup> March, 2024 by the Ministry of Public Service, Performance and Delivery Management vide a letter dated 20<sup>th</sup> March, 2024.



REPUBLIC OF KENYA  
THE NATIONAL ASSEMBLY  
THIRTEENTH PARLIAMENT - THIRD SESSION - 2024  
PUBLIC PETITIONS COMMITTEE

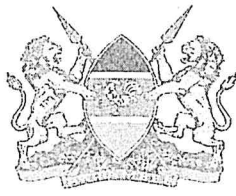
ADOPTION SCHEDULE  
OF THE REPORT ON CONSIDERATION OF PUBLIC PETITION NO. 7 OF 2023 ON  
GAZETTEMET OF RACHUONYO NORTH AS A HARDSHIP AREA

DATE...22/05/2024.....

We, the undersigned Honourable Members of the Public Petitions Committee, do hereby affix our signatures to this Report on the consideration of **Public Petition No. 7 of 2023 on Gazettement of Rachuonyo North as a Hardship Area** to confirm our approval and confirm its accuracy, validity and authenticity:

NO.	NAME	DESIGNATION	SIGNATURE
1.	Hon. Nimrod Mbithuka Mbai, M.P.	Chairperson	
2.	Hon. Janet Jepkemboi Sitienei, M.P.	Vice Chairperson	
3.	Hon. Patrick Makau King'ola, M.P.	Member	
4.	Hon. Joshua Chepyegon Kandie, M.P.	Member	
5.	Hon. John Walter Owino, M.P.	Member	
6.	Hon. Ernest Ogesi Kivai, M.P.	Member	
7.	Hon. Maisori Marwa Kitayama, M.P.	Member	
8.	Hon. Edith Vethi Nyenze, M.P.	Member	
9.	Hon. Bidu Mohamed Tubi, M.P.	Member	
10.	Hon. Caleb Mutiso Mule, M.P.	Member	
11.	Hon. (Eng.) Bernard Muriuki Nebart, M.P.	Member	
12.	Hon. Peter Mbogho Shake, M.P.	Member	
13.	Hon. Suzanne Ndunge Kiamba, M.P.	Member	
14.	Hon. John Bwire Okano, M.P.	Member	
15.	Hon. Sloya Clement Logova, M.P.	Member	





REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY  
THIRTHEENTH PARLIAMENT (SECOND SESSION)

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CONVEYANCE OF PUBLIC PETITION

*(No. 07 of 2023)*

REGARDING GAZETTEMET OF RACHUONYO NORTH AS A  
HARDSHIP AREA

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- 1. Honourable Members,** Article 119 of the Constitution accords any person the right to petition Parliament to consider any matter within its authority. Further, Standing Order 225(2)(b) requires the Speaker to report to the House any Petition other than those presented by a Member.
- 2. Hon. Members,** in this regard, I wish to report to the House that my Office has received a Petition from one Mr. Fredrick Gaya of P.O. Box 10, Kendu-Bay, calling for the gazettelement of Rachuonyo North Sub-County as a hardship area to ensure provision of adequate number of teachers in the area.
- 3.** The petitioner avers that Rachuonyo North Sub-County is currently hamstrung by prevailing hardship conditions that are a direct result of dire poverty levels in the area adversely affecting both teachers and learners.
- 4.** Further, the petitioner observes that schools in Rachuonyo North Sub-County are understaffed with poorly motivated teachers who have been denied hardship allowances whilst providing the same facilities to Suba North and Suba South sub-counties despite the fact that all three sub-counties are located in Homa Bay County.

5. **Hon. Members**, the petitioner highlights the plights plaguing Rachuonyo North Sub- County as being exemplified by lack of factories, barren sandy soils, rugged and rocky terrain, poor rainfall, perennial floods, and devastating poverty that continues to affect education standards in the area. He thus seeks the intervention of this House to, among other things, secure the gazettelement of Rachuonyo North Sub-County as a hardship area in order to improve education standards through provision of adequate number of teachers in the area.
6. **Honourable Members**, having established that the matter raised in the Petition is well within the authority of this House; and further, that the matters raised in this Petition are not pending before any court of law, constitutional or legal body, I hereby commit the Petition to the Public Petitions Committee for consideration pursuant to Standing Order 208A.
7. The Committee is required to consider the Petition and report its findings to the House and to the Petitioner in accordance with Standing Order 227(2).

I thank you.

  
**THE RT. HON. MOSES WETANG'ULA, EGH, MP**  
**SPEAKER OF THE NATIONAL ASSEMBLY**

DATE .....1/3/23.....

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**REPUBLIC OF KENYA**  
**THE NATIONAL ASSEMBLY**

**MINUTES OF THE 37<sup>TH</sup> SITTING OF THE PUBLIC PETITIONS COMMITTEE HELD  
ON THURSDAY, JULY 6, 2023, IN THE MINI CHAMBER, COUNTY HALL,  
PARLIMANET BUILDINGS AT 3:00 PM**

**PRESENT**

1. Hon. Janet Jepkemboi Sitienei, M.P. - Vice Chairperson
2. Hon. Joshua Chepyegon Kandie, M.P.
3. Hon. Maisori Marwa Kitayama, M.P.
4. Hon. Edith Vethi Nyenze, M.P.
5. Hon. Suzanne Ndunge Kiamba, M.P.
6. Hon. John Bwire Okano, M.P.

**APOLOGIES**

1. Hon. Nimrod Mbithuka Mbai, M.P. - Chairperson
2. Hon. Patrick Makau King'ola, M.P.
3. Hon. John Walter Owino, M.P.
4. Hon. Ernest Ogesi Kivai, M.P.
5. Hon. Bidu Mohamed Tubi, M.P.
6. Hon. Caleb Mutiso Mule, M.P.
7. Hon. (Eng.) Bernard Muriuki Nebart, M.P.
8. Hon. Peter Mbogho Shake, M.P.
9. Hon. Sloya Clement Logova, M.P.

**IN ATTENDANCE**

**PETITIONERS (YEBO AFRICA)**

1. Mr. Fredrick Gaya - Director (Lead Petitioner)
2. Mr. Gilbert Gaya - ICT Consultant
3. Ms. Emily Achieng' - Consultant, Water and Environment

**PETITIONER**

1. Mr. Patrick Kaberia - Petitioner

**SECRETARIAT**

1. Ms. Miriam Modo - First Clerk Assistant
2. Mr. Willis Obiero - Clerk Assistant III
3. Mr. Shadrack Omondi - Legal Counsel II
4. Ms. Patricia Gichane - Legal Counsel II

5. Mr. Martin Sigei - Research Officer III  
6. Ms. Lilian Mburugu - Media Relations Officer III

**MIN./PPETC/2023/238: PRELIMINARIES**

The Chairperson called the meeting to order at 3.00 p.m. and Hon. Joshua Chepyegon Kandie, M.P, said the prayers.

**MIN./PPETC/2023/239: ADOPTION OF AGENDA**  
**AGENDA**

1. Prayer
2. Adoption of the Agenda
3. Confirmation of minutes of Previous Sittings
4. Matters Arising
5. **Consideration of a Public Petition regarding Gazettement of Rachuonyo North as a Hardship Area**
  - a) *Meeting with the Petitioner (Mr. Fredrick Gaya)*
6. **Consideration of a Public Petition regarding Amendment to the Kenya Information and Communications Act**
  - b) *Meeting with the Petitioner (Mr. Patrick Kaberia)*
7. Any Other Business
8. Adjournment

The proposed Agenda of the Meeting was adopted to constitute business having been proposed by Hon. Edith Vethi Nyenze, M.P. and seconded by Hon. Maisori Marwa Kitayama, M.P.

**MIN./PPETC/2023/240: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS**

The Agenda was deferred.

**MIN./PPETC/2023/241: CONSIDERATION OF A PUBLIC PETITION REGARDING GAZETTEMENT OF RACHUONYO NORTH AS A HARDSHIP AREA**

*Meeting with the Petitioner (Mr. Fredrick Gaya)*

Mr. Fredrick Gaya and two other petitioners submitted that—

- i. Rachuonyo North Sub-County is vast and covers a geographical area of approximately 435.4 sq km with a population of 178,686 people and a density of 410 persons per sq km.
- ii. The area is highly inaccessible due to the rugged and hilly terrain and dilapidated road networks to most schools across the sub-county, which hampers learning.
- iii. The climatic conditions are very harsh, leading to a high prevalence of food shortages, malnutrition among school-going children, and other related problems associated with food security.
- iv. Perennial floods have had detrimental effects on the lower plains of Lake Victoria, River Sondu Miriu, Awach Kibuon, Ondhedhe, and Tende during the short rainy seasons,

occasioning loss of lives and livestock, destruction of crops, grazing land, power interruptions, closure of schools, and other atrocities.

- v. Efforts to seek interventions from the relevant bodies to mitigate the said effects have never borne any fruit.
- vi. Further, the area is highly affected by the high prevalence of HIV/AIDS, which is an indicator of the high poverty index in the area. The scourge is a result of poor young girls engaging in sexual activities along the beaches (sex for fish) to earn a living.
- vii. Education has been highly affected by this scenario, whereby school-going children, specifically the poor and the orphaned, are vulnerable to all forms of abuse.
- viii. That the Sub-County has been affected by an acute shortage of teachers and imbalanced staffing due to the hardships and challenges experienced, which have a direct impact on education. Teachers opt to transfer to other places with better working conditions, or those who are demoralized impact negatively on the learning process for lack of motivation. The transfer of the Sub County TSC Director without replacement has derailed learning in the sub county.
- ix. The school's infrastructure in several stations is deplorable and unsafe for learning.
- x. The last mile connectivity of electricity to some schools in Rachuonyo North Sub-County hence this has disadvantaged digital learning in the said schools especially with the growing need for e-learning and technological advancements.
- xi. Most parts of the Sub-County lack clean and safe water for drinking hence are prone to contracting waterborne diseases and other related illnesses.
- xii. Based on the above, the National Assembly should gazette Rachuonyo North Sub-County as a Hardship area.

### **Committee Concerns**

The Committee raised the following concerns with regards to the presentation by the Petitioners -

- i. With regards to the number of schools in Rachuonyo North Sub County and those that have been connected to electricity, the Petitioner indicated that there were two hundred and twenty-seven (227) schools, 167 being public and 58 being private among which very few had electricity connectivity.
- ii. Regarding the number of tarmac roads in Rachuonyo North Sub-County, the Petitioner responded that there is only one major road from Katito, the Ojijio-Otek Road, which was tarmacked.
- iii. Regarding the Criteria for determination of designated hardship areas in the civil service, the Petitioner mentioned as follows and stated that Rachuonyo North met the criteria -
  - a) non/limited availability and accessibility to food;
  - b) non availability/limited access to portable water;
  - c) non/inadequate transport and communication services;
  - d) non/limited availability of social services and amenities;
  - e) harsh climatic conditions;

- f) insecurity and high possibility of security threats; and
- g) socio economic indicators such as poverty index from the Kenya National Bureau of Statistics.

### **Committee Resolutions**

After the deliberations, the Committee resolved that the following other relevant stakeholders cited in the Petition should appear before the Committee -

- i.) Kenya National Bureau of Statistics (KNBS);
- ii.) Teachers Service Commission (TSC);
- iii.) Trade Union of Teachers from Rachuonyo North;
- iv.) Public Service Commission (PSC);
- v.) Parents Associations from Rachuonyo North;
- vi.) Ministry of Education; and
- vii.) Ministry of Public Service, Gender and Affirmative Action.

**MIN./PPETC/2023/242:      CONSIDERATION OF A PUBLIC PETITION REGARDING AMENDMENT TO THE KENYA INFORMATION AND COMMUNICATIONS ACT**

#### *Meeting with the Petitioner (Mr. Patrick Kaberia)*

Mr. Patrick Kaberia appeared before the Committee and submitted that—

- a) Rapid growth of the ICT and Digital Economy was the basis of the Petition praying to the national Assembly to urgently amend the Kenya Information and Communications Act to align it with the current and emerging developments of a connected digital world to enhance growth and expansion of both economic and social sectors of the nation.
- b) Information, cyber security threats, copyright issues, content creation among others need to be regulated for purposes of achieving maximum benefits while averting possible threats posed by the IT trends and digital economy among other issues.
- c) There were existing gaps on the capacity of Communications Authority of Kenya (CAK) with regards to the digital space of e-payments and revenue collection from digital space as the CAK was majorly focused on broadcasting. Therefore, a reconstitution to include new players from the ICT world would improve how the CAK deals with emerging digital trends.

### **Committee Concerns**

- a) *The Proposed Kenya Information and Communications (Amendment) Bill, 2023*

The Committee sought to know whether the Petitioner was aware of the proposed Kenya Information and Communications (Amendment) Bill, 2023 by the Ministry of Information, Communications and the Digital Economy which would still be used to address the concerns he was raising. The Petitioner responded that he was not aware of the said Bill.

b) *Merits and the demerits of the Petitioner's proposed to amendments to the KICA Act.*

The Committee sought to understand how the proposed amendments would impact the country specifically the merits and demerits of the proposed legislation by the petitioner. The Petitioner responded that the proposal would address cyber security threats, copyright issues, mobile money transactions misinformation and other related issues.

### **Committee Resolutions**

After the deliberations, the Committee resolved that -

- a) The committee summarily dismisses the Petition; and
- b) Petitioner shares his proposal with the Ministry of Information, Communications, and the Digital Economy so that his issues can be incorporated in the proposed Kenya Information and Communications (Amendment) Bill, 2023.

**MIN./PPETC/2023/243: ANY OTHER BUSINESS AND ADJOURNMENT**

There being any other business, the Chairperson adjourned the meeting at 5:15 p.m. The next meeting would be held on notice.

Sign: \_\_\_\_\_



(CHAIRPERSON)

Date: \_\_\_\_\_

28/01/2023





**REPUBLIC OF KENYA**  
**THE NATIONAL ASSEMBLY**

**MINUTES OF THE 56<sup>TH</sup> SITTING OF THE PUBLIC PETITIONS COMMITTEE HELD ON WEDNESDAY, AUGUST 30, 2023, IN GARDEN SUITE, HILTON GARDEN INN HOTEL AT 09.00 A.M.**

**PRESENT**

- |   |   |                  |
|---|---|------------------|
| 1. Hon. Nimrod Mbithuka Mbai, M.P.          | - | Chairperson      |
| 2. Hon. Janet Jepkemboi Sitienei, M.P.      | - | Vice Chairperson |
| 3. Hon. John Walter Owino, M.P.             |   |                  |
| 4. Hon. Ernest Ogesi Kivai, M.P.            |   |                  |
| 5. Hon. Joshua Chepyegon Kandie, M.P.       |   |                  |
| 6. Hon. Edith Vethi Nyenze, M.P.            |   |                  |
| 7. Hon. (Eng.) Bernard Muriuki Nebart, M.P. |   |                  |
| 8. Hon. Maisori Marwa Kitayama, M.P.        |   |                  |
| 9. Hon. Peter Mbogho Shake, M.P.            |   |                  |
| 10. Hon. Caleb Mutiso Mule, M.P.            |   |                  |
| 11. Hon. Suzanne Ndunge Kiamba, M.P.        |   |                  |

**APOLOGIES**

1. Hon. Patrick Makau King'ola, M.P.
2. Hon. John Bwire Okano, M.P.
3. Hon. Bidu Mohamed Tubi, M.P.
4. Hon. Sloya Clement Logova, M.P.

**IN ATTENDANCE**

**PETITIONER**

Hon. Owen Baya, MP - Member of Parliament, Kilifi North Constituency

**SECRETARIAT**

- |                        |   |                              |
|------------------------|---|------------------------------|
| 1. Mr. Samuel Kalama   | - | Principal Clerk Assistant II |
| 2. Ms. Miriam Modo     | - | Clerk Assistant I            |
| 3. Ms. Anne Shibuko    | - | Clerk Assistant I            |
| 4. Mr. Shadrack Omondi | - | Legal Counsel II             |
| 5. Mr. Martin Sigei    | - | Research Officer III         |
| 6. Ms. Rehab Chepkilim | - | Audio Officer                |

**Kenya National Union of Teachers (KNUT) Rachuonyo North Branch**

- |                             |   |   |
|-----------------------------|---|---|
| 1. Mr. Patrick Were Onyango | - | Chairperson, KNUT Rachuonyo Branch      |
| 2. Mr. Joshua Okinda        | - | Vice Chairperson, KNUT Rachuonyo Branch |
| 3. Mr. Peter Obilo          | - | KEPSHA Chairperson, Rachuonyo Branch    |

**MIN./PPETC/2023/360: PRELIMINARIES**

The Chairperson called the meeting to order at 09.00 a.m and Hon. Joshua Kandie, M.P. said the prayers.

**MIN./PPETC/2023/361: ADOPTION OF AGENDA**

1. Prayer
2. Adoption of the Agenda
3. Confirmation of minutes of Previous Sittings
4. Matters Arising
5. **Consideration of Public Petition No. 44 of 2023 regarding Enhancement of House allowances for teachers working and residing within Kilifi Municipality**  
*- Meeting with the Petitioner (Hon. Owen Baya, MP)*
6. **Consideration of Public Petition No. 7 of 2023 regarding Gazettement of Rachuonyo North Sub - County as a hardship area**  
*(a) Meeting with Chairperson of Parents Association, Rachuonyo North Subcounty (Mr. Gordon Osano); and*  
*(b) Meeting with Chairperson, Kenya National Union of Teachers (KNUT) Rachuonyo North Branch (Mr. Patrick Were Onyango)*
7. **Consideration of Public Petition No. 8 of 2023 regarding Enactment of Legislation to Criminalize and Prescribe Penalties for the Crime of Enforced Disappearance**  
*(a) Meeting with the Attorney General (Hon. Justin B.N. Muturi, EGH); and*  
*(b) Meeting with Chairperson, Kenya National Human Rights Commission (KNHRC) (Mr. Davinder Lamba)*
8. Any other Business
9. Adjournment & Date of Next Meeting

Thereafter, the proposed Agenda of the Meeting was adopted to constitute business having been proposed by Hon. Edith Nyenze, M.P. and Hon. Peter Shake, M.P.

**MIN./PPETC/2023/362: CONFIRMATION OF MINUTES OF PREVIOUS SITTING**

The Agenda was deferred.

**MIN./PPETC/2023/363: MATTERS ARISING**

There were no matters arising.

**MIN./PPETC/2023/364: CONSIDERATION OF PUBLIC PETITION NO. 14 OF 2023 REGARDING ENHANCEMENT OF HOUSE ALLOWANCES FOR TEACHERS WORKING AND RESIDING WITHIN KILIFI MUNICIPALITY**

**Brief by the Legal Counsel**

The Legal Counsel briefed the Committee as follows: -

- i.) The Petitioner states that through a Kenya Gazette Notice dated 19<sup>th</sup> March, 2019 Kilifi Town was conferred to the status of Municipality which led to the enhancement of house allowances for civil servants.



- ii.) Teachers under the permanent and pensionable terms are paid house allowance every month by the Teachers Service Commission (“TSC”) based on the teachers’ job group, working condition and status of town and geographical area.
- iii.) The Salaries and Remuneration Commission (“SRC”) issued an enhanced house allowance classification of teacher’s work stations within Municipalities, whereby those residing in major towns receive a higher pay for house allowance so as to cushion them from the high cost of living and high cost of housing.
- iv.) The teachers working and residing within Kilifi Municipality allegedly feel discriminated and that their right and fundamental freedom infringed as prescribed by Article 27 of the Constitution.
- v.) Teachers in Kilifi Town are not paid a commensurate allowance as those residing in major towns hence seeking for house accommodation at the outskirts of Kilifi Town.
- vi.) Teachers residing and working within Kilifi Municipality experience very high cost of living, the cost of rental houses and basic commodities is high compared to the monthly allowance that they are paid forcing them to seek affordable houses in the outskirts of the town far away from the schools in which they teach.
- vii.) The above said situation has strained them financially with regards to the cost of transport, insecurity, service delivery, accessibility to markets and shops and other social amenities.
- viii.) The matter presented in the petition is not pending before any Court of law or any constitutional or legal body.
- ix.) The petitioner therefore seeks the intervention of this Honourable Committee to—
  - a) inquire into the living conditions of teachers working and residing within Kilifi Municipality;
  - b) recommend that teachers in both Secondary and Primary Schools within Kilifi Municipality are facilitated to receive enhanced house allowance and
  - c) make any other recommendation or action it deems fit in addressing the plight of the Petitioners.

### **Meeting with the Petitioner**

**Member for Kilifi North Constituency, Hon. Owen Baya, MP**

The Petitioner appeared before the Committee and submitted as follows: -

- i.) The Salaries and Remuneration Commission (SRC) in fulfilment of its mandate of reviewing remuneration and benefits for public officers issued a circular in December 2014 that harmonized significant variations that existed before the review.

- ii.) A Gazette Notice of conferment of Kilifi Town as a Municipality was issued on 19<sup>th</sup> March 2019. The Municipality status resulted into a higher cost of living and increase of rent charged by land lords. Teachers thereby opt to seek cheaper housing outside municipality.
- iii.) The distance between the areas of residence and schools they work in are far. This demoralizes the teachers and greatly affects the value of service offered to students.
- iv.) Clause 7.6 of the Collective Bargaining Agreement between the Teachers' Service Commission and the Kenya Union of Post Primary Education Teachers (KUPPET) made on 13<sup>th</sup> July 2021 provides that House allowance shall be payable as per appendix 5 under *Major Municipalities* with rates ranging from Kshs. 4,500 to Kshs. 35,000 depending on the pay grade. This is the category which Kilifi falls under.
- v.) Unfortunately, teachers in Kilifi were getting House allowance under the category *All other areas* which ranges from Kshs. 3,200 to Kshs. 20,000.
- vi.) There was urgent need for SRC to review of House allowances for public officers in Kilifi to get the House allowance that they deserve.

#### **Committee concerns**

##### ***Evidence that the teachers are not being paid their rightful rate***

The Committee sought evidence on whether teachers are not being paid the enhanced rate. The petitioner confirmed that teachers working and residing in Kilifi Municipality are paid the enhanced house allowance, and indeed he committed to submit pay slips from some teachers to the Committee as proof of the non-payment of the said allowance.

##### ***Timing of the various resolutions***

The Committee observed that whereas the SRC issued a circular on payment of House allowances in 2014, Kilifi was conferred Municipality status in 2019.

This meant that by the time SRC was forwarding names of municipalities, Kilifi had not been conferred the status of a municipality.

#### **Committee resolutions**

The Committee resolved to engage and seek views from the Teachers Service Commission, Salaries and Remuneration Commission, KUPPET and KNUT within Kilifi Town with a view to address the prayers sought by the petitioner.

MIN./PPETC/2023/365:      **CONSIDERATION OF PUBLIC PETITION NO. 7 OF 2023  
REGARDING GAZETEMENT OF RACHUONYO NORTH  
SUB - COUNTY AS A HARDSHIP AREA**

Meeting with Chairperson of Parents Association, Rachuonyo North Subcounty (Mr. Gordon Osano)

The stakeholder did not appear before the Committee. The Agenda was deferred.

## Meeting with Chairperson, Kenya National Union of Teachers (KNUT) Rachuonyo North Branch

The Chairperson, Kenya National Union of Teachers (KNUT) Rachuonyo North Branch, Mr. Patrick Were Onyango accompanied by Mr. Joshua Okinda and Mr. Peter Obilo appeared before the Committee and submitted as follows: -

### **Why Rachuonyo North is suitable for Gazettment as a hardship zone**

1. Rachuonyo North Sub-County is on the Eastern side of Homa-Bay County. It borders Rangwe Sub-County to the West, Rachuonyo South to the South, Rachuonyo East to the South East, Kisumu County (Nyakach) to the East and a very long stretch of Lake Victoria to the length of the entire North.
2. The Hardship allowance extends beyond just financial incentives; it serves a lifeline for teachers grappling with varied and unique adversities. It provides a monthly reprieve while honouring the unwavering dedication of educators who choose where these challenges abound.
3. Supporting teachers in hardship zones transcends the classroom; it empowers the entire communities. Education, especially in such areas, forms the bedrock of progress, and these educators play a pivotal role in extending knowledge to remote, marginalized, nomadic, hard to staff areas. In Rachuonyo North, a big percentage are fishing nomads. The essence of Hardship Allowance invests in a brighter, more equitable future.
4. Rachuonyo North Sub-County experiences conditions that are congruent with those areas that have been awarded and gazetted as Hardship zone. They are but not limited to:
  - a) *Limited basic social services and amenities*- attempts have been made to increase the number of schools in Rachuonyo North in order to increase accessibility, retention of learners in schools. Many schools have been started on the basis of clans. However, the classrooms are in a pathetic state and most of them have mud floors. Teachers are not comfortable teaching in this region thereby affecting performance of students and transition rate to institutions of higher learning.
  - b) *Insecurity and high possibility of security threats* -the poverty index in Rachuonyo North stands at averagely 48.4%. This has led to high insecurity through thuggery, robbery and theft, posing a serious challenge to the teachers and the rest of the workforce who are most vulnerable. since they are not very familiar with the locals. Increased cases of defilement have also resulted in most teenage pregnancies. Many teachers have in turn run away in search of safer areas and the remaining lot have thus remained vulnerable for insecurity.
  - c) *Persistent harsh climatic conditions like flooding, landslides and drought*- every rain season, many parts of Rachuonyo North are prone to floods. Schools that are on a little raised grounds are used as rescue sites during which no learning take place. The most affected schools when River Sondu Miriu breaks its banks include Osodo, Kobuya, Kobala of Miriu Zone, and when River Awach breaks its banks and the Alego Kamser Swamp Kimira, Kibugu, Lieta and Ngeta of Nyakongo Zone, Bala area of Kandiege Zones. During the entire flooding period, schools are not in operation in such areas as both pupils and teachers are also in the makeshift camps in

the schools. Here, they either wait for relief food or donated blankets in the mosquito infested stagnant floods.

Frequent landslides have led to falling of all electricity poles leaving the area in darkness. Teachers are reluctant to teach in schools in the area due to absence of facilities such as electricity.

- d) *Inaccessibility to food*-the main economic activity in the area is fishing. The amount and size of fish have gone down drastically due to overfishing. In addition, invasion of the lake by water hyacinth has led to inaccessibility to the fish. To handle the challenges, children go fishing overnight even during school days and were sleepy and tired when they attend school, thereby affecting their concentration to studies.

The other source of living is sand mining that is carried out along the lake, along the river banks and on lands which are predominantly sandy. These have left very ugly sites of pits which are at times filled with water to be breeding sites for mosquitoes. The lands have been overmined to the extent that no agriculture can take place leading to inaccessibility to food. The Kobala, Kobuya, Kamwala areas of Miriu Zone, the Kajiei area of Rambira Zone and the Miti Mbili area of Pala and Homa Zones are prone to these.

Harsh climatic conditions where the rains have become very unpredictable, the soils which are mostly sandy have seriously affected crop yields. For the last 7 years or so, the region has not had any substantive harvest. When it rains, majority of areas have their crops flooded seriously destroying the crops as in Osodo area of Miriu Zone, Kimira, Kibugu, Osika areas of Nyakongo zones.

All the 9 zones have a common border with the lake, since Rachuonyo North has the longest coastline in Nyanza. Residents who do farming along the long stretch of the lake have had their crops completely destroyed by hippos. The hippos are herbivores and the persistent drought has made it difficult to access food too, thereby, having the food crops along the lake as their source of food.

- e) *Lack of clean water*- shortage of water has been and is still a constant menace to the people of Rachuonyo North. There are three major rivers; River Sondu Miriu at the Eastern border with Kisumu County, River Oluch at the border with Rangwe and River Awach passing through Kendu Zone into Lake Victoria.

Most schools use rain catchment water, which going by the harsh climatic conditions, is very irregular. The most hit areas are Apuko area of Miriu Zone, Obangla and Gungu area of Rambira Zone, Ngoche, Bware, Makaka area of Kendu Zone, Borngia area of Nyakongo Zone, Wikondiek, Wimagak, Rabware areas of Omboga Zone, Omindi, Rabuor, God Ndonyo area of Kandiege Zone, Adhiro, Otaro area of Pala Zone, Kodula, Dhok Mit area of Got Oyarozone and the Homa Hills area of Homa Zone.

Children have to carry water every day in tins to be used at school by both teachers and learners. Water vendors who get the water from the polluted and water hyacinth infested lake sell at Kshs. 40 for a 20litre container.

- f) *Inadequate transport and communication network*- Rachuonyo North Sub-County has one major tarmac road running from Nyakwere in Miriu zone, through Rambira, Kendu, Nyakongo and Kandiege zones at the Nyangweso border with Rangwe Sub-Counties, the other one running from Kendu-Bay to Mawego. The rest of the road network is barely accessible. This cuts across all the 9 zones of Rachuonyo North.
- g) *Inadequate teacher staffing*- inaccessibility to food, poor infrastructure, the rough terrain especially in the upper parts of the Sub-County, has resulted into teachers preferring to be posted to the neighbouring Sub-Counties that have been gazetted as hardship zones. These areas include Suba Central, Suba North, Suba South (all in Homa-Bay County), Homa-Bay Sub-County, which enjoy enhanced House Allowance as it a former major Municipality, and Nyakach and Muhoroni Sub-Counties of Kisumu County.

Teachers who were delocalized to the fertile and high rainfall Kisii, Nyamira and parts of Migori counties and to hardship Suba, Muhoroni and Nyakach have refused to be rerouted back to Rachuonyo North. In Primary schools,, the ration of teachers to pupils stands at 1;80 while in Secondary schools, it stands at 1:75. Gazetting the area as a hardship area would attract teachers to the area and would to a large extent reduce understaffing.

- h) *HIV Prevalence*- the Sub-County has the longest coastline of Lake Victoria. The beaches attract fishermen and fish mongers from different parts of the country and even beyond. These are recipes for anti-social and moral decadence. Population of school going children is big around these areas and so is the working force mostly teachers. The County of Homa-Bay, where Rachuonyo North is part and parcel of, has a HIV/AIDS prevalence of nearly 4.5 times higher than the national prevalence at 26.0%. the County contributed 15.10% and 14.0% of the total new HIV/AIDS infections among children and adults respectively.
- i) *High occurrence of teenage pregnancy* - according to Kenya Demographic and Health Survey Report, the county has 24% prevalence in teen pregnancies, among the top 3 counties in Kenya. Rachuonyo North contributes a bigger percentage of the pregnancies. These have seriously negatively affected the lives of learners and teachers who are expected to ensure the teenagers attend school to completion. It was reported that sex pests take advantage of of the vulnerability and poverty of the girls and lure them into sexual intercourse at such tender ages. It takes resilience for a teacher to model a child parent.
- j) *Neighbourhood counties getting Hardship Allowance* -the 9 Sub-Counties in Homa Bay County share common demographics. Rachuonyo North shares several features with Suba North, Suba Central and Suba South since the communities living in these areas are fishing nomads, who move from one place to the other in search of fish and often stray into Uganda and Tanzania waters. This has often put the fishermen at loggerheads with Uganda over the fishing grounds. The 3 Suba Sub-Counties have been mapped out and gazetted as hardship zones yet the Rachuonyo North has remained isolated. Teachers are seeking transfers to Suba and leaving Rachuonyo North in droves.

Rachuonyo North borders Nyakach Sub-County to the East. In terms of climate, the two Sub-Counties share similar characteristics and so is the terrain. Nevertheless, the Sondu and Nyabondo areas of Nyakach are more economically potential.

Nyakach has just a small stretch of Lake Victoria, yet Rachuonyo North has over 40km stretch as the lake borders the entire norther part of Rachuonyo North. Nyakach had been mapped out and gazetted as a Hardship zone and so is the Muhoroni in Kisumu County which is partly a sugar-belt. Most of our teachers have run to Nyakach, others have gone up to Muhoroni to benefit from the Hardship Allowance leaving Rachuonyo North understaffed.

In view of these, the only way to mitigate Rachuonyo North from such unique and diverse factors is to map it out and accept its gazettelement as a Hardship zone.

5. The National Council for Nomadic Education in Kenya (NACONEK) via a letter dated 17<sup>th</sup> July 2023 wrote to the County Director of Education Homa-Bay addressed to Ndhiwa, Rachuonyo North and Suba Sub-Counties on distribution of Fortified composite instant uji flour for drought intervention schools. The inclusion of Rachuonyo North together with Suba Sub-Counties is a clear indicator that it falls among the vulnerable Hardship areas of Homa-Bay County.
6. The Petitioner concluded his submissions by requesting the Committee to fast track the legislative process with a view to consider mapping out Rachuonyo North Sub-County as a Hardship area upon examining the factors mentioned and others that were not mentioned in this document.

### Committee concerns

*i. Efforts made to have the gazettelement done*

The Committee enquired on efforts the stakeholders had made to have Rachuonyo North gazetted as a hardship area.

The stakeholders responded that the matter had been raised in the past through previous Members of Parliament but it had not been addressed. The teaching fraternity of Rachuonyo North had also tried to raise the matter with the current leadership, but the efforts had not been fruitful.

*ii. Effectiveness of the National Government Constituencies Development Fund in the Constituency*

The Committee sought views of the stakeholders on the effectiveness of NG-CDF, given that the photos shared in the stakeholders' submission depicted a delapidated state of schools.

The stakeholders responded that while the NG-CDF played a huge role, it was not sufficient to cover the large number of schools in the constituency.

*iii. Scope of the hardship allowance*

The Committee asked whether the intention of the gazettelement was to gain hardship allowance for teachers only.

The stakeholders explained that once the area is declared a hardship area, the gazettelement will have a ripple effect on other public officers serving in the area.

Further, the Ministry of Education will enable the area benefit from several government programmes that fall under other sectors such as health and agriculture, thereby benefitting the entire community.

iv. *Efforts made by the county government to reduce marginalization*

The Committee asked what effort had been made by the County Government to seek for gazettelement as hardship area. The stakeholders responded that its role was limited since Education is a function of the National Government, and only Early Childhood fell under the County Government.

MIN./PPETC/2023/366: CONSIDERATION OF PUBLIC PETITION NO. 8 OF 2023 REGARDING ENACTMENT OF LEGISLATION TO CRIMINALIZE AND PRESCRIBE PENALTIES FOR THE CRIME OF ENFORCED DISAPPEARANCE

Meeting with the Attorney General (Hon. Justin B.N. Muturi, EGH)

The petitioner did not appear before the Committee. The Agenda was therefore deferred.

MIN./PPETC/2023/367: ADJOURNMENT AND DATE OF THE NEXT MEETING

There being no other business, the Chairperson adjourned the meeting at 12:30 p.m. The next meeting would be held on Wednesday, 30<sup>th</sup> August 2023 at 3.00 p.m.

Sign: .....  
(CHAIRPERSON)

Date..... 07/11/2023







**REPUBLIC OF KENYA**  
**THE NATIONAL ASSEMBLY**

**MINUTES OF THE 32<sup>ND</sup> SITTING OF THE PUBLIC PETITIONS COMMITTEE HELD ON WEDNESDAY, MAY 22, 2024, IN GARDEN SUITE 1, HILTON GARDEN INN HOTEL, MACHAKOS AT 10.00. A.M**

**PRESENT**

1. Hon. Nimrod Mbithuka Mbai, M.P. - Chairperson
2. Hon. Janet Jepkemboi Sitienei, M.P. - Vice Chairperson
3. Hon. (Eng.) Bernard Muriuki Nebart, M.P.
4. Hon. Maisori Marwa Kitayama, MP
5. Hon. Ernest Ogesi Kivai, M.P.
6. Hon. Joshua Chepyegon Kandie, M.P
7. Hon. Bidu Mohamed Tubi, M.P.
8. Hon. Suzanne Ndunge Kiamba, M.P.
9. Hon. Edith Vethi Nyenze, M.P.
10. Hon. Caleb Mutiso Mule, M.P.
11. Hon. John Bwire Okano, M.P.
12. Hon. Peter Mbogho Shake, M.P.

**APOLOGIES**

1. Hon. Patrick Makau King'ola, M.P.
2. Hon. John Walter Owino, M.P.
3. Hon. Sloya Clement Logova, M.P.

**SECRETARIAT**

1. Mr. Samuel Kalama Principal Clerk Assistant 1
2. Ms. Roselyne Ndegi Senior Serjeant-at-Arms 1
3. Ms. Miriam Modo Clerk Assistant I
4. Ms. Anne Shibuko Clerk Assistant I
5. Ms. Patricia Gichane Legal Counsel II
6. Mr. Isaac Nabiswa Legal Counsel II
7. Ms. Abdinasir Moge Yussuf Fiscal Analyst II
8. Mr. Willis Obiero Clerk Assistant III
9. Mr. Martin Sigei Research Officer III
10. Ms. Nancy Akinyi Research Officer III
11. Mr. Calvin Karungo Media Relations Officer III
12. Ms. Felistus Muiya Protocol Officer
13. Mr. Cosmas Akhonya Audio Officer

**MIN./PPETC/2024/ 202: PRELIMINARIES**

The Chairperson called the meeting to order at 10:00 a.m. and proceedings began with prayers by Hon. Joshua Kandie, M.P.

**MIN./PPETC/2024/203: ADOPTION OF AGENDA**

**AGENDA**

1. Prayer
2. Adoption of the Agenda
3. Confirmation of minutes of previous sittings
4. Matters Arising
5. Consideration of Report on Public Petition No. 7 of 2023 on Gazettement of Rachuonyo North as a Hardship Area
6. Consideration of Report on Public Petition No. 57 of 2023 on Gazettement of Nyatike West, Nyatike North and Nyatike South Sub-Counties as hardship areas
7. Consideration of Report on Public Petition No. 70 of 2023 on Hardship allowance and affirmative action for teachers in Chonyi, Sub-County
8. Consideration of Report on Public Petition No. 71 of 2023 on Gazettement of Chepalungu Sub-County as hardship areas
9. Any Other Business
10. Adjournment

The Agenda was adopted to constitute business having been proposed by Hon. Bidu Mohamed, M.P. and seconded by Hon. Caleb Mutiso Mule, M.P.

**MIN./PPETC/2024/204: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS**

The Agenda was deferred.

**MIN./PPETC/2024/205: CONSIDERATION OF REPORT ON PUBLIC PETITION NO. 7 OF 2023 REGARDING GAZETEMENT OF RACHUONYO NORTH AS A HARDSHIP AREA**

The Committee reviewed the draft Report and made the following observations:

- i. The Ministry of Public Service, Performance & Delivery Management had constituted an Inter-Agency Technical Committee to address disparities regarding hardship areas across the public service to promote fairness and ensure parity and equal treatment among public servants.

- ii. The Kenya National Bureau of Statistics (KNBS) had identified and weighted seven (7) parameters to guide the determination and re-categorization of hardship areas including food, water, transport and communication services, social services, climate and terrain, security and poverty index.
- iii. Rachuonyo North Sub-County has high levels of poverty, poor infrastructure, low access to clean water, low connectivity to electricity, inadequate teacher staffing and has prevalence of human-wildlife conflict among others.
- iv. Rachuonyo North Sub-County is not classified as a hardship area yet the neighbouring sub-counties sharing common demographics with it are receiving hardship allowances.

The Committee made the following recommendations:

Prayer: Classify and Gazette Rachuonyo North Sub-County as a hardship area and award hardship allowance to teachers and other civil servants.

- i. The Committee recommends that the Ministry of Public Service, Performance & Delivery Management fast-tracks the review of relevant policies with a view to designate all regions meeting the set-out criteria as hardship areas; and submit the report to the National Assembly within three (3) months upon tabling of this report.
- ii. The Committee further recommends that the Ministry of Public Service, Performance & Delivery Management reviews the categorization and gazettement of hardship areas every ten years.
- iii. Pursuant to the provisions of Standing Order 208A(c), the Committee recommends that the findings arising from the consideration of this Petition be debated by the House.

MIN./PPETC/2024/206

CONSIDERATION OF REPORT ON PUBLIC  
PETITION NO. 57 OF 2023 REGARDING  
GAZETTEMENT OF NYATIKE WEST, NYATIKE  
NORTH AND NYATIKE SOUTH SUB-COUNTIES AS  
HARDSHIP AREAS

The Committee reviewed the draft Report and made the following observations:

- i. The Ministry of Public Service, Performance & Delivery Management had constituted an Inter-Agency Technical Committee to address disparities

regarding hardship areas across the public service and promote fairness, and ensure parity of treatment among public servants.

- ii. The Kenya National Bureau of Statistics (KNBS) had identified and weighted seven (7) parameters to guide the determination and re-categorization of hardship areas including food, water, transport and communication services, social services, climate and terrain, security and poverty index.
- iii. Nyatike West, Nyatike North and Nyatike South Sub-counties are not classified as hardship areas to enable teachers and other civil servants to receive hardship allowances.
- iv. Civil servants posted to the Nyatike Constituency are unwilling to report to their workstations in the area. As a result, schools are severely understaffed, and the few available teachers are demotivated due to non-payment of hardship allowance.
- v. Teachers in the neighbouring sub-counties experiencing the same climatic and economic conditions are receiving hardship allowances for instance, Suba North, Suba South, Kuria East and Kuria West.

**The Committee made the following recommendations:**

**Prayer:** Classify and gazette Nyatike West, Nyatike North and Nyatike South Sub-Counties as hardship areas and award hardship allowance to teachers and other civil servants

- i. The Ministry of Public Service, Performance & Delivery Management through the Inter-Agency Technical Committee fast-tracks the review of relevant policies with a view to designating all regions meeting the set-out criteria as hardship areas.
- ii. The Committee also recommends that the Ministry of Public Service, Performance & Delivery Management establish a framework for periodic review of hardship areas across the country.

**MIN./PPETC/2024/207:**

**CONSIDERATION OF REPORT ON PUBLIC PETITION NO. 70 OF 2023 REGARDING HARDSHIP ALLOWANCE AND AFFIRMATIVE ACTION FOR TEACHERS IN CHONYI, SUB-COUNTY**

The Committee reviewed the draft Report and made the following observations:

- i. The Ministry of Public Service, Performance & Delivery Management had constituted an Inter-Agency Technical Committee to address disparities regarding hardship areas across the public service and promote fairness, ensure parity of treatment among public servants.
- ii. The Kenya National Bureau of Statistics (KNBS) has identified and weighted seven (7) parameters to guide the determination and re-categorization of hardship areas including food, water, transport and communication services, social services, climate and terrain, security and poverty index.
- iii. Chonyi Sub County is not among of the forty-four (44) designated as hardship areas based on the CBA between TSC and the Union.
- iv. Chonyi Sub County has various challenges that warrant its inclusion as a hardship area including poor access to medical services, housing, food, and other essential social amenities which are only available in Kilifi Town.

**The Committee made the following recommendations:**

- i. The Ministry of Public Service, Performance & Delivery Management fast-tracks the review of relevant policies with a view to designate all regions meeting the set-out criteria as hardship areas; and submit the report to the National Assembly within three (3) months upon tabling of this report.
- ii. The Ministry of Public Service, Performance & Delivery Management reviews the categorization and gazettment of hardship areas every ten years.
- iii. Pursuant to the provisions of Standing Order 208A(c), the findings arising from the consideration of this Petition be debated by the House.

**MIN./PPETC/2024/208:**

**CONSIDERATION OF REPORT ON PUBLIC  
PETITION NO. 71 OF 2023 REGARDING  
GAZETTEMET OF CHEPALUNGU SUB-COUNTY  
AS HARDSHIP AREAS**

**The Committee reviewed the draft Report and made the following observations:**

- i. The Ministry of Public Service, Performance & Delivery Management had constituted an Inter-Agency Technical Committee to address disparities regarding hardship areas across the public service and promote fairness, ensure parity of treatment among public servants.
- ii. The Kenya National Bureau of Statistics (KNBS) had identified and weighted seven (7) parameters to guide the determination and re-categorization of hardship areas including food, water, transport and communication services, social services, climate and terrain, security and poverty index.

- iii. Chepalungu Constituency in Bomet County is not part of the sixteen (16) designated hardship areas while the Judiciary had twenty-one (21) areas designated as hardship based on location of the law courts.
- iv. Chepalungu Sub County has various challenges that would warrants its inclusion as a hardship area including unavailability and inaccessibility of water, and harsh climatic conditions and terrain, inadequate health facilities,
- v. Chepalungu Constituency borders Narok West and Emurua Dikkir constituencies and share the same climatic conditions yet the two constituencies were gazetted hardship areas.

**The Committee made the following recommendations:**

In response to the prayer that the Committee recommends to the relevant Ministry/Agencies to Gazette Chepalungu Sub County, as a hardship area, the Committee recommends that—

- i. The Ministry of Public Service, Performance & Delivery Management fast-tracks the review of relevant policies with a view to designate all regions meeting the set-out criteria as hardship areas; and submit the report to the National Assembly within three (3) months upon tabling of this report.
- ii. The Ministry of Public Service, Performance & Delivery Management reviews the categorization and gazettelement of hardship areas every ten years.
- iii. Pursuant to the provisions of Standing Order 208A(c), the findings arising from the consideration of this Petition be debated by the House.

**MIN./PPETC/2024/209:**

**ADJOURNMENT AND DATE OF NEXT MEETING**

The Chairperson adjourned the meeting at 01:00 p.m. The next meeting will be held on Wednesday, 22<sup>nd</sup> May 2024 at 02:00 p.m.

Sign:  .....

(CHAIRPERSON)

Date..... 05-06-2024 .....

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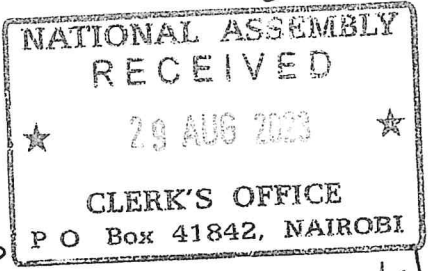
29/08/23



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PUBLIC SERVICE COMMISSION

PSC/ADM/26/II(36)

29th August, 2023

The Clerk  
The National Assembly  
P.O. BOX 41842-00100  
NAIROBI

Attn: Serah Kioko, MBS

MS/Moshi  
gads  
deal  
[Signature]

MEETING WITH THE PUBLIC PETITIONS COMMITTEE ON VARIOUS PETITIONS

I acknowledge receipt of your letter Ref. No. KNA/DLPS/PPETC/CORR/2023/168 of 17th August, 2023 in respect of the above mentioned subject matter.

The committee has convened a meeting on Wednesday 30th August, 2023 for the Public Service Commission to make presentation and provide necessary information to facilitate consideration of the following petitions;

- 1. Gazettement of Rachuonyo North as hardship Area; and
- 2. Enhancement of House Allowances for Teachers working and residing within Kilifi Municipality.

Whilst considering the petition, the Commission observed that an Inter-Agency team was constituted by the Ministry of Public Service, Gender and Affirmative Action to review the policy on current designated hardship areas and allowances in order to ensure harmony in the Civil Service. The review sought to harmonize the categorization of hardship areas and eligibility for hardship allowance by addressing the disparities and inequities in the hardship policies currently in use in the Public Service. The Inter-agency team have submitted a memorandum to the Cabinet for consideration and approval hence the matter is still pending.

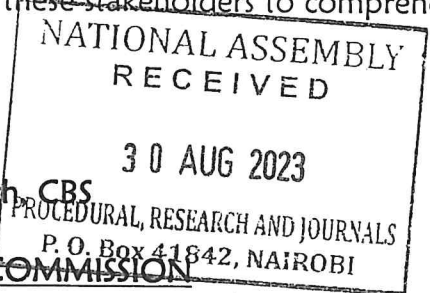
On the petition on enhancement of house allowance for teachers working and residing in Kilifi, the matter falls within the mandate of Teachers Service Commission and therefore the TSC is better placed to respond in accordance with their existing collective bargaining agreements and in consultation with Salaries Remuneration Commission.

Arising from the above, it may therefore be necessary for the public petitions committee to bring on board these stakeholders to comprehensively respond to the petitions.

Regards.

[Signature]

Dr. Simon K. Rotich, CBS  
SECRETARY/CEO  
PUBLIC SERVICE COMMISSION

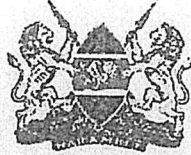




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REPUBLIC OF KENYA  
MINISTRY OF EDUCATION  
*Office of the Cabinet Secretary*

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

Jogoo House "B"  
Harambee Avenue  
P. O. BOX 30040 - 00100  
NAIROBI - Kenya

Ref: MOE/SDHER/HRM/CON/14/7

25<sup>th</sup> October, 2023

**Mr. Samuel Njoroge**  
Clerk of the National Assembly  
Parliament Buildings  
Parliament Road  
NAIROBI

Dear Sir,

**RE: MEETING WITH THE PUBLIC PETITIONS COMMITTEE  
REGARDING VARIOUS PETITIONS**

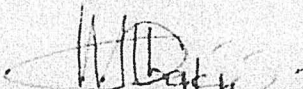
Reference is made to your letter Ref: KNA/DLPS/PPETC/CORR/2023/233 dated 18<sup>th</sup> October, 2023 inviting me to a meeting with Public Petitions Committee on 26<sup>th</sup> October, 2023 regarding various petitions.

Enclosed herewith please find our responses on the following matters:

- (a) Gazettement of Rachuonyo North as a Hardship area; and
- (b) Enhancement of House Allowance for Teachers Working and Residing within Kilifi Municipality.

I remain at your disposal to provide any further information as may be required.

Yours sincerely,

  
Hon. Ezekiel Machogu, CBS  
CABINET SECRETARY

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**REPUBLIC OF KENYA**  
**MINISTRY OF PUBLIC SERVICE, PERFORMANCE AND DELIVERY MANAGEMENT**  
**Office of the Cabinet Secretary**

**Telegraphic address: "Personnel", Nairobi**

**Telephone: Nairobi 2227411**

Telex: 23125

Fax: 2243620

*When replying please quote*

P.O. BOX 30050- 00100

NAIROBI

KENYA

Ref No: **MPSG&DM/3/7**

① DLPS

*Please deal.*

20<sup>th</sup> March, 2024

*Sol.*  
21/03/24

The Clerk of the National Assembly  
 Parliament Buildings  
**NAIROBI**

**RE: MEETING WITH THE PUBLIC PETITIONS COMMITTEE ON VARIOUS PUBLIC PETITIONS**

Reference is made to your letter Ref. KNA/DLPS/PPETC/CORR/2024/019 dated 13<sup>th</sup> March, 2024 on the above subject matter.

The Public Petitions Committee has invited me to make a presentation and provide information regarding various Petitions before them. The Ministry of Public Service, Performance and Delivery Management takes note of the key oversight role played by Committees in the National Assembly.

In this regard, the Ministry has prepared adequate and comprehensive responses on the four (4) petitions raised. I wish to express my sincere apology for being unable to appear in person for the scheduled meeting.

It is therefore my humble request that the Committee accepts written submissions by the Ministry.

*Moses*

**Hon. Moses K. Kuria, HSC**  
**CABINET SECRETARY**

Encl.

NATIONAL ASSEMBLY  
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② Ms. Mado  
 Respond to this with  
 the Committee Resolub

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 DEPUTY CLERK S. KIKO  
 P. O. Box 41842 - 00100, NAIROBI

*AL*  
21/3/24

**Copy to: Amos N. Gathecha, EBS, 'ndc' (K)**  
 Principal Secretary  
 State Department for Public Service  
**NAIROBI**

③ Kaelu  
 please bring this  
 before the

② Head, PAJ  
 please process  
 Return  
 21/3/24

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