

COUNTY ASSEMBLY OF TAITA TAVETA

THIRD ASSEMBLY - THIRD SESSION

THE HANSARD

Sitting no. 056

Wednesday, July 31, 2024

The House met at 10:03 a.m. in the County Assembly Chamber

[The Acting Speaker (Hon. Anselm Mwadime) in the Chair]

PRAYER

QUORUM

The Acting Speaker: Honourable Members, I confirm that there is quorum to proceed with this Sitting. Clerks-at-the-Table, read the Orders of the day.

COMMUNICATION FROM THE CHAIR

SPEAKER'S KAMUKUNJI

The Acting Speaker: Honourable Members, there shall be a Speaker's Kamukunji after the rise of this Morning Sitting at 11:30 a.m.

PETITIONS

The Acting Speaker: Honourable Members, the Chair is in receipt of two Petitions. The first one is:

PETITION BY SAGALLA RESIDENTS CLAIMING TO BE BONAFIDE RESIDENTS OF MGENO LAND

We, the undersigned citizens of Kenya, who are residents of Sagalla in Voi sub-County within Taita Taveta County draw the attention of Taita Taveta County Assembly to the following:

Aware that, Article 185 of the Constitution of Kenya (CoK), 2010 vests the legislative authority and oversight of the County Governments in the County Assemblies;

That, Article 62 of the CoK, 2010 mandates the County Governments to hold in trust public land on behalf of the County residents;

That, the Kenya National Land Use Policy, 2017 recognizes the need for social development that takes cognizance of the provision of basic services and amenities;

That, whereas Section 5(e) of the National Land Commission Act, 2012 empowers the National Land Commission to initiate investigations into present or historical land injustices and make appropriate recommendations for redress.

That, whereas Section 116 of the County Governments Act 2012, imposes an obligation on the County Government and its agencies to deliver services within its delineated area of jurisdiction.

That further, whereas Section 117 (1)(a) of the County Governments Act 2012 mandates the county governments to prioritize provision of basic needs to its people.

That, the County Governments are empowered by the law to approve any developments before they take place. That, all that piece of public land known as Mgeno land, situated at Mgeno in Sagalla, Voi Constituency, within Taita Taveta County has historically belonged to the Wasagalla sub-tribe.

That, in the recent past, unknown private individuals who are not Wasagalla have invaded the said public land belonging to Wasagalla and erected illegal structures whose unstated aim is to displace the bonafide Wasagalla locals from their known historical parcel of land known as Mgeno land.

That, the said illegal invasion and construction of illegal structures in the Wasagalla-Mgeno land by non-locals, has constantly led to explosive land wrangles, pitting the Wasagalla against the marauding non-Wasagalla invaders which poses a grave security risk in the area.

That, whereas the petitioners confirm that efforts to have this matter resolved amicably have been raised to relevant bodies, which have failed to give any satisfactory responses to the Wasagalla locals. And that all the matters in respect of which this Petition is raised are not and have never been before any court of law or constitutionally mandated body.

Therefore, your humble petitioners pray that the County Assembly of Taita Taveta intervenes and ensures that:

1. It unequivocally affirms and declares that all that piece of land known as Mgeno Land situated at Mgeno area in Sagalla, Voi constituency within Taita Taveta County belongs to Wasagalla.
2. It investigates under what circumstances the unknown non-Wasagalla private people encroached the Wasagalla land and illegally put up structures without the express consent of the Wasagalla people, posing a grave security risk pitting the Wasagalla against non-Wasagalla invaders.
3. The illegal structures constructed by the encroachers be demolished and legal action be taken against the encroachers and any private public and county official who may have taken part and/or abated the illegality.
4. That the County Government of Taita Taveta reclaims back this public piece of land known as Mgeno land situated at Mgeno area within Sagalla, Voi constituency in Taita Taveta County and hold it in trust for its bonafide people, being the Wasagalla.
5. That, the County Government of Taita Taveta delineates the boundary between Wasagalla Community land versus Mwatate, Kishamba and Rong'e Nyika locations;

though established by existing beacons and maps, but is largely ignored and as such the main source of conflict between the said communities.

And your petitioners will forever pray.

The Petition has been presented by Mr. Raphael Mwachanga Ngao, who is the Chairman for Ndara B with ID details and telephone numbers given. The other one is Mr. Kimweri Chongo K, with other details given, then there is Mr. Simon Guyo who is Chairman for Teri B with the ID and telephone numbers on behalf of Sagalla residents and the Petition has been signed by several people which can be estimated to be fairly more than 2,500 persons.

Honourable Members, I welcome any comments, remarks, observations or clarifications in relation to this Petition. The Floor is open.

The Petition is hereby committed to the Lands and Human-Wildlife Conflict Resolution Committee pursuant to Standing Order no. 204 (1). Pursuant to Standing Order no. 204 (2), the Committee has 60 calendar days to respond to the petitioners by way of a Report addressed to the petitioners and laid on the Table of this County Assembly.

DELAY IN ABSORBING UHC STAFF AND UNFAIR TERMS AND CONDITIONS

The Acting Speaker: Honourable Members, once again we have a Petition to the Taita Taveta County Assembly on delay in absorbing Universal Health Coverage (UHC) staff and unfair terms and conditions.

Background of issues as set out in the Petition are that:

1. In May and June 2020, a group of Healthcare professionals were recruited on a three-year contract under the UHC program with additional duties to support the COVID-19 response efforts. These workers were deployed across the 47 County Governments and some at the national facilities.
2. Their contracts ended in May and June 2023 and the County Governments renewed it for another three years under similar previous terms to end in May and June 2026.
3. The Ministry of Health issued a renewal notice of one year upon the advisory by the Public Service Commission (PSC) for the contracts to end in May and June 2024 upon which they were to be absorbed on permanent and pensionable terms in May and June 2024.
4. The UHC staff signed physical contract letters with the respective County Public Service Boards specifying that their contracts extend until May and June 2026. However, in the Government's Human Resource Information System (GHRIS), the Ministry of Health is listed as the employer and the ROD read May and June 2024.

These staff have been delivering a critical healthcare service countywide for the past four years. Many of them have taken on extra responsibilities including overseeing the facilities, particularly in those that previously lacked staff. These contracts offered a consolidated salary that has resulted to the UHC staff earning only what their counterparts earn for the

same duration and at the same environment despite working for an equal amount of time and having an equal number of tasks in their working places.

While in service, the County has been advertising for healthcare jobs on permanent terms while not considering the staff under the UHC contracts. These UHC staff are disturbed and demotivated by the development as they had valid expectations that they would have been confirmed on permanent and pensionable terms or their remunerations improved to be equal with their colleagues who work under the same conditions.

Throughout the four years of employment the salaries of the UHC personnel have consistently incurred all civil salary deductions without any increase or additional allowances including those working in hardship areas.

Relevant laws in support of the Petition

1. Articles 41(1) and (2)(a) of the Constitution of Kenya (CoK), 2010 stipulate that:
 - i. We are entitled to constitutional privileges of fair labour practices, this being a human right. Every person has the right to fair labour practices.
 - ii. Every worker has the right—
 - (a) to fair remuneration

The healthcare staff under UHC program on contract have suffered unfair remuneration as it has not followed the principal of equal work equal pay.

1. This act is not only unfair but discriminatory in nature and goes against the doctrine of fair labour practices ordained in Article 41 of the CoK, 2010 as well as the Employment Act no. 11 of 2007 And the Laws of Kenya on fair labour practice and discrimination.
2. Both Article 27 of the CoK 2010 and Section 5(3)(a) of the Employment Act of 2007 prohibit discrimination on basis of race, colour, sex, religion or other opinion, nationality, ethnic or social origin, disability, pregnancy, mental status or HIV status.

Supplementary to this Petition

1. On 12th October 2023, the Senate Standing Committee on Labour and Social welfare issued a report to recommend the absorption of UHC staff on permanent and pensionable terms.
2. On 18th October 2023, the Health Unions, Ministry of Health and the Council of Governors (CoG) signed the Kericho declaration whereby it was agreed that they would facilitate absorption and mainstreaming of the National Government contract staff including the UHC staff and the CoG should develop a plan for absorbing other contract staff.
3. The Ministry of Health drafted a circular Ref no SDPH and PS .1/1/170 dated 2nd April 2024 requesting for the approval of the PSC to transition the UHC staff to permanent terms in their respective counties.
4. That, the CoG in a circular REF/COG/6/40/3AVOL3(27) dated 4th April, 2024, instructed all governors and their respective County Public Service Boards, to submit

data of all the UHC staff in the county government's health facilities, which was done.

5. In a joint sitting with the National Assembly and the Senate Departmental Committees on Health of to deliberate on the nationwide strike that was convened on 2nd May 2024, the Chairman of the PSC announced that there shall be a further extension of contracts for the UHC staff for a further two years, making it six years under the same terms and conditions.
6. These remarks, not only weakened the morale of these healthcare workers who have been diligently serving Kenyan populace since the most critical phase of the pandemic during which some lost their lives, but also provoked questions regarding fairness and the dedication of the government towards achieving the Universal Health Coverage goal.
7. These different circulars have brought confusion among the UHC staff.

It is in view of the foregoing that we pray as follows:

That, the Governor, the Taita Taveta County Department of Health Services and the County Public Service Board (CPSB), to immediately initiate the process of transitioning all the healthcare workers currently under the UHC program, as per the circular issued by the Ministry of Health, REF NO. SDPH&PS.1/1/170 dated 2nd April 2024 by MOH and circular Ref no. PSC/10/01(2) by PSC and remunerate them as per the Salaries and Remuneration Commission (SRC) guidelines without discrimination.

That, the deliberations made in Intergovernmental Relations Technical Committee (IGRTC) summit on the 24th March 2023 to hamper the UHC staff from being remunerated fairly as per SRC guideline be halted, since they violate the principle of equal pay work, which has been used by the CoG in preventing the transitioning of terms of UHC workers to permanent and pensionable terms.

That, this Assembly should pass a resolution that, we the UHC staff of Taita Taveta County, be converted to permanent and pensionable terms in the Financial Year 2024/2025 from 1st July 2024 and state:

That, the petitioners have tried to have the matter addressed by the County Executive in vain.

That, the matters highlighted in this Petition are not pending before any court of law.

Humble Petition by the undersigned;

Hon. Members, quite a number of UHC staff have signed this Petition. From Wundanyi sub-County, more or less 15, Mwatate sub-County around 36, Voi sub-County UHV workforce list around 24 and Taveta sub-County UHC staff, 25.

Honourable Members, I open the Floor for any Member who has a remark to make on this particular Petition. The Petition is hereby committed to the Health and Sanitation Services Committee pursuant to Standing Order no. 204(1).

Further, pursuant to Standing Order no. 204 (2), the Committee has 60 calendar days to respond to the petitioners by way of a report addressed to the petitioner or petitioners, and laid on the Table of this House. Next Order.

PAPER LAID

REPORT ON THE STATUS OF COUNTY MARKETS

Hon. Anisa Mwakio (MCA, Nominated): Thank you, Mr. Acting Speaker, Sir. I beg to lay the following Paper on the Table of the House on behalf of the Chairperson of Trade, Industry and Cooperatives Development Committee:

Report of the Sectoral Committee on Trade, Industry and Cooperatives Development on the Status of County Markets. Thank you, Mr. Acting Speaker.

(Hon. Anisa Mwakio laid the Paper on the Table of the House)

The Acting Speaker: Next Order.

NOTICE OF MOTION

APPROVAL OF REPORT ON THE STATUS OF COUNTY MARKETS

Hon. Anisa Mwakio (MCA, Nominated): Thank you, Mr. Speaker, Sir. On behalf of the Chairperson of Trade, Industry and Cooperatives Development Committee, I beg to give notice of the following Motion:

That, this Third County Assembly approves the report of the Sectoral Committee on Trade, Industry and Cooperatives Development on the Status of County Markets, laid on the Table of this House on Wednesday, 31st July 2024, Morning Sitting no. 056 and its recommendations thereof. Thank you, Mr. Acting Speaker.

The Acting Speaker: Next Order.

ADJOURNMENT

The Acting Speaker: Hon. Members, there being no other business, the House stands adjourned until Wednesday, 31st July 2024 at 2:30 p.m.

(The House rose at 10:28 a.m.)