



# KENYA NATIONAL UNION OF TEACHERS

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## **PRESS STATEMENT ON THE RETREAT MEETING BETWEEN THE KENYA NATIONAL UNION OF TEACHERS (KNUT) AND THE TEACHERS SERVICE COMMISSION (TSC) HELD AT SAWELA LODGES – NAIVASHA FROM 1<sup>ST</sup> TO 5<sup>TH</sup> OCTOBER 2018:**

On 23<sup>rd</sup> August 2018, the KNUT/TSC held a meeting to address issues which arose from the policies and matrices developed by TSC in the guise of implementation of CBA. The meeting was triggered by a protest letter issued by KNUT on 7<sup>th</sup> August, 2018. Teachers Service Commission having acknowledged that there were significant gaps in the implementation of The CBA proposed for a retreat to iron out the contentious issues. As a way forward, both parties mutually agreed to establish a CBA Monitoring and Evaluation Committee.

The issues identified had been previously discussed in a meeting held between TSC and KNUT of 6<sup>th</sup> September, 2017 and yet they remained unresolved. TSC had not called for a meeting from September, 2017, despite the Union's several letters. This position prompted the Union to issue a strike notice thus the meeting of 23<sup>rd</sup> August, 2018.

In the intervening period between September, 2017 and September 2018, TSC developed and started implementing policies that go against several Clauses of the CBA, the CORT, Labour Relations Act and the fair labour practices. Among the policies developed against the CBA are delocalization and punitive transfers of teachers, implementation of TPAD, and TPD as well as refusing to promote teachers upon attaining higher qualifications.

The actions of TSC is in blatant violation of the provisions of the CBA and provisions of Regulation 3 and 70 of the CORT and more so the Constitution of Kenya Article 41, the Labour Relations Act Sections, 4, 54, 55 as well as the recognition agreement signed between the Union and The Commission.

The irregular and punitive mass transfers and delocalization of teachers by the Commission has dismantled family units and the administrative structures of the Union. The president's directive to the Commission of 15<sup>th</sup> August 2018 has also been ignored by the Commission.

The retreat was therefore to have an in-depth discussion over the matters raised by the Union and have a way forward. To this end, the CBA M & E Committee was set up comprising five members from each party to:-

- Monitor and evaluate the full implementation of the CBA
- Develop a joint report on the issues identified by the parties in the meeting of 23<sup>rd</sup> August, 2018 and set up the agenda for the retreat.

The constituted committee had five sittings whereby, based on their mandate and TOR prepared a joint report on the issues identified as contentious. The Committee report was presented and adopted at the retreat for deliberations.

Among the contentious issues were:-

- Promotion of Teachers upon attainment of higher qualifications
- Delocalization of Teachers
- Transfer of Teachers
- Teacher performance Appraisal
- Teacher Professional Development
- Policy Developments by the Commission.

The retreat of 1<sup>st</sup>-5<sup>th</sup> October 2018 had in its first session laid out that the retreat discussion would be anchored on the CBA and statutes made integral to it including the CORT. It was during this 1<sup>st</sup> and 2<sup>nd</sup> sessions that tremendous progress was made including the agreement on the immediate release of elected Union officials and executive officers serving full time in the union. It was also agreed that the mode and conditions under which delocalization, transfers and deployment of teachers would be done in full adherence of the CORT.



It came as a surprise that on the 3<sup>rd</sup> day of the retreat when we had planned to discuss promotion of teachers, the TSC raised the fact that the issue of delocalized officials of the Union was not on the agenda. The Union took a great length to reiterate its position that the transfer of union officials outside their elective areas of representation was an upfront to its existence the law.

Accordingly KNUT would like to state as follows:-

- Whereas KNUT is not opposed to the mandate of the TSC as provided under the Constitution and the TSC Act, TSC should not be blind to the rights of the Union under the same Constitution and the Labour Relations Act and the Recognition Agreement between the Union and the Commission. The recognition agreement has obtained inherent rights to it under Article 41 of the Constitution, Sections 4, 54, and 55 of the Labour Relations Act as well as the several ILO conventions on the rights that Unions upon recognition are entitled to enjoy. Teachers who have exercised their rights under Article 41 of the Constitution, are protected therein as well as Section 4 of the LRA. The CORT further protects the right under Regulation 191(1) thereof. To this extent, when the Commission forcefully transfer 110 officials of the Union therefore stripping them of their representation, there is express breach of the law.
- While appreciating the recognition of the provision of Article 27 of the Constitution and Section 4 of the TSC Act by the Commission, the same recognition should apply to Article 41 of the Constitution, Section 2, 4 (3)(b) of the LRA. It is therefore a matter of right for the officials of the Union to be retained in their areas of representation according to the Union Constitution and having been registered by the Registrar of the Trade Unions. It is thus in very bad faith for TSC to clandestinely transfer the 85 registered elected union officials from their areas of representation and is setting a very dangerous precedent to the operations and survival of the Union.
- Release of Union Officials in anchored in law and in particular regulation 167 of the TSC CORT. It is therefore irresponsible and reckless of TSC to purport to say that it is releasing the elected officials of the Union as an act of magnanimity to promote cordial relationship between TSC and the Union.

- The Union's take is that the TSC applied diversionary tactic to evade discussing issues on promotions of teachers which had formed the CORE part of the retreat.
- Finally, the Union is committed to harmonious industrial relations with TSC and further reiterate that they are ready to continue with the deliberations in order to solve myriad of industrial challenges facing the implementation of the CBA for the period 2017-2021 including the promotion of teachers upon attainment of higher qualification, delocalization and implementation of TPAD under an atmosphere of mutual respect and equal partnership.
- In the meantime, the Union as a professional body is committed to solving the industrial challenges that would hinder the provision of quality education to the learners of this country, and we are ready to meet the TSC within the next two weeks as we had agreed to iron out these contentious issues once and for all.



**(HON. WILSON SOSSION)**  
**SECRETARY GENERAL**  
**K.N.U.T.**