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REPUBLIC OF KENYA  
THE NATIONAL ASSEMBLY


THIRTEENTH PARLIAMENT - FOURTH SESSION - 2025  
PUBLIC PETITIONS COMMITTEE

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REPORT ON-

CONSIDERATION OF PUBLIC PETITION NO. 62 OF 2023 REGARDING STAGNATION OF  
TEACHERS PROGRESSION IN PUBLIC SERVICE

APRIL, 2025

 <b>THE NATIONAL ASSEMBLY PAPERS LAID</b>	
<b>DATE:</b> 23 APR 2025	<b>DAY:</b> Wed
<b>TABLED BY:</b>	CHAIR, PUBLIC PETITIONS Comm
<b>CLERK-AT THE-TABLE:</b>	P MUYIGA

Directorate of Legislative & Procedural Services  
Clerk's Chambers  
Main Parliament Buildings  
NAIROBI

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## **LIST OF ACRONYMS**

<b>JE</b>	<b>Job Evaluation</b>
<b>KNUT</b>	<b>Kenya National Union of Teachers</b>
<b>KUPPET</b>	<b>Kenya Union of Post Primary Education Teachers</b>
<b>SRC</b>	<b>Salaries and Remuneration Commission</b>
<b>TPD</b>	<b>Teacher Professional Development</b>
<b>TSC</b>	<b>Teachers Service Commission</b>

## 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 its consideration of Public Petition No. 64 of 2023 regarding stagnation of teachers' progression in Public Service. The petition was conveyed to the House pursuant to the provisions of Standing Order No. 225 (2) (b) by the Honourable Speaker on behalf of all the affected teachers in the country.

The Petitioner prayed that the National Assembly through the Public Petitions Committee engages the Teachers Service Commission with a view to among others address the crisis of teachers' stagnation and career progression in the public service.

The Committee observed that promotions in the teaching sector are done in two establishments namely, the common cadre, where teachers in both Primary and Secondary Schools were promoted automatically after serving in one grade for three (3) years and competitive promotions where vacancies were filled competitively subject to availability of vacancies and funds. The Committee recommends that the National Assembly considers appropriating funds in the Financial Year 2025/2026 for promotion of teachers and that TSC ensures sensitization of teachers on the career progression guidelines and the applicable appraisal tools.

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. ERNEST KIVAI OGESI KAGESI, M.P.**  
**CHAIRPERSON, PUBLIC PETITIONS COMMITTEE**

Date.....  ..... 22.04.2025

## **PART ONE**

### **1. PREFACE**

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

The Public Petitions Committee is established under the provisions of Standing Order 208A with the following terms of reference:

- a) considering all public petitions tabled in the House;
- b) making such recommendations as may be appropriate with respect to the prayers sought in the petitions;
- c) recommending whether the findings arising from consideration of a petition should be debated; and
- d) advising the House and reporting on all public petitions committed to it.

### 1.3. Committee Membership

The Public Petitions Committee was first constituted in October 2022 and reconstituted in March 2025 and comprises the following Members:

#### Chairperson

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

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

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

Hon. Beatrice Kadeveresia Elachi, CBS,  
M.P.  
Dagoretti North Constituency  
**Orange Democratic Movement (ODM)**

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

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

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

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

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

Hon. Peter Irungu Kihungi, M.P.  
Kangema Constituency  
**United Democratic Alliance (UDA)**

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

#### **1.4. Committee Secretariat**

The Public Petitions Committee was facilitated members of the secretariat:

**Lead Clerk  
Mr. Ahmed Kadhi  
Principal Clerk Assistant II**

**Ms. Anne Shibuko  
First Clerk Assistant**

**Ms. Miriam Modo  
First Clerk Assistant**

**Mr. Willis Obiero  
Clerk Assistant III**

**Ms. Isaac Nabiswa  
Legal Counsel II**

**Ms. Patricia Gichane  
Legal Counsel II**

**Ms. Nancy Akinyi  
Research Officer III**

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

**Mr. Paul Shana  
Serjeant-at-Arms**

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

**Mr. Peter Mutethia  
Audio Officer**

## PART TWO

### 2. BACKGROUND OF THE PETITION

#### 2.1. Introduction

1. Public Petition No. 62 of 2023 regarding stagnation of teachers' progression was presented to the House on 25<sup>th</sup> October, 2023, by the Honourable Speaker pursuant to the provisions of Standing Order 225(2)(b), on behalf of the affected teachers across the Country.
2. The petitioners aver that KUPPET is the largest and most influential professional association in Kenya given that it draws its members from teachers serving in secondary schools and teachers' training colleges across the country.
3. The petitioners decried the perennial stagnation of teachers that has led to situations where teachers remain in one job grade for more than five years, and in extreme cases, some teachers have not been promoted for fifteen years.
4. The petitioners fault the Teachers Service Commission (TSC) for failing and/or refusing to promote thousands of teachers despite the existence of unambiguous policies that provide for teachers' career progression.
5. The petitioners further decry the numerous unsuccessful engagements with the Teachers Service Commission (TSC) and have thus sought the urgent intervention of this House in resolving the ongoing teachers' promotions stagnation and career progression crisis.

#### 2.2. Petitioner's Prayers

6. The Petitioners prayed that the National Assembly through the Public Petitions Committee engages the TSC with a view to among others address the crisis of teachers' stagnation and career progression in the public service.

## **PART THREE**

### **3.0 STAKEHOLDERS' SUBMISSIONS ON THE PETITION**

#### **2.3. The Petitioner**

On Wednesday, 25th September, 2024 and Tuesday, 26th November, 2024, the Petitioner, the Secretary General of the Kenya Union of Post Primary Education (KUPPET), Mr. Akelo Misori, appeared before the Committee and submitted as follows–

7. KUPPET was the largest and most influential professional association in the Country given that it draws its members from teachers serving secondary schools and teacher training colleges across the country.
8. There was a significant crisis of career stagnation within the teaching profession with a large number of teachers remaining without promotion for over five years and in extreme cases, some teachers have not been promoted for 15 years.
9. Although the Teachers Service Commission (TSC) made efforts to promote 51,000 teachers during the Financial Year 2023/2024, more than 130,000 teachers who meet or exceed the criteria for promotion remain unpromoted.
10. This stagnation highlights systemic failures in policies governing teacher promotions, including the Code of Regulations, Guidelines on Appointment and Deployment of Institutional Administrators, and the Career Progression Guidelines outlined in the 2016-2021 and 2021-2025 Collective Bargaining Agreements (CBAs).
11. In 2023, KUPPET conducted a survey that revealed a truly dire situation. By that time, more than 60,000 teachers had served in one job group for more than five years-which constitutes stagnation.
12. The findings of the research to the Departmental Committee on Education and Research saw Parliament appropriate a budget for promotions in 2023/2024 budget.
13. The Sh1 billion allocated enabled the Teachers Service Commission to promote 4,000 teachers who had stagnated in service. Together with common cadre and annual increments, the Commission promoted more than 50,000 teachers in the financial year 2023/2024. However, out of the qualified teachers who were shortlisted and interviewed, the TSC left out 130,000 teachers due to financial constraints.
14. The number of teachers who have stagnated in Service is approximate 180,000, from both secondary and primary schools.
15. The TSC sought a budget of Sh2.3 billion for promotions in 2024. Along with the annual increments, that would benefit another 50,000 teachers.

16. Unfortunately, Honourable Members, no money was provided for this budget line. In fact, out of this House, not many people seem to know how much money has been provided for employment of teachers, for JSS and other programmes including teachers' medical cover.
17. The education budget for 2024/2025 had been amended through the Appropriations, Act, the first supplementary budget and other circulars from the Treasury and the Ministry of Education. These many documents have left KUPPET and key stakeholders in the dark.
18. Efforts to address the matter with the Commission had been unsuccessful and the Petitioner prayed that the National Assembly through the Public Petitions Committee engages TSC with a view of urgently addressing the matter of stagnation of teachers.

#### **2.4. The Kenya National Union of Teachers**

On Wednesday, 25<sup>th</sup> September 2024, the Secretary General of the Kenya National Union of Teachers (KNUT), Mr. Collins Oyuu, accompanied by other Union Officials, appeared before the Committee and submitted as follows—

19. Kenya National Union of Teachers remains the largest, most formidable and exceedingly influential Professional Association in the country. Unlike other trade movements, the Union draws its members from Comprehensive schools (PP 1 to Grade 9) - this means from Pre-Primary, Primary schools and Junior Schools; including Senior Schools (Secondary Schools).
20. Stagnation of teachers in the teaching service, whereby teachers stayed in one Job Grade for several years has reached catastrophic levels.
21. Despite teachers having sat for promotional interviews and accordingly shortlisted for promotions, the TSC only promoted 36,000 teachers, while over 130,000 were not promoted. More than 15,000 teachers submitted their complaints to KNUT and among them were complaints from teachers who had stagnated for over 10 years in the same Job Group, yet they had less than 5 years to retire.
22. For instance, in 2023, 130,000 teachers successfully sat for promotional interviews and were shortlisted for various Job Grades, but for unexplained reasons, the Commission declined to effect the promotions. This was one of the many reasons that led KNUT to issue a Strike Notice on the 16<sup>th</sup> August 2024.
23. However, the Commission had since assured KNUT that teacher promotion was ongoing until all pending cases were fully addressed. In spite of the pledge by TSC that it would address all cases due for promotion, KNUT will continue to pursue the matter with the TSC to ensure all the affected teachers get their promotions.
24. Some teachers despite possessing the requisite qualifications, skills and the necessary experiences had not earned any promotion in over 15 years.

25. Privately, KNUT engaged education experts, economists, policy developers and specialists in Human Resource Management to establish what could be the bane for teachers stagnating in the same Job Grades for long periods. It was established that besides laxity by TSC to live to its commitment as provided for in Article 237(2) (d) of the Constitution of Kenya 2010; inadequate funding from the National Treasury to address salary/allowance increments and Career Progression Guidelines which were developed in 2018 by TSC was also an impediment to professional growth of teachers, and their promotions.
26. The Aims of Career Progression Guidelines for Teachers (2018) were to provide for Minimum requirements for selection, appointment, recruitment and promotion and a defined career structure that would attract, motivate and facilitate retention of competent teachers.
27. However, Career Progression Guidelines for Teachers (2018) had failed to among others;
- (i) provide clearly defined job description for teachers;
  - (ii) provide clarity on teacher deployment and assignment of duties;
  - (iii) align work performance to career progression;
  - (iv) provide clear policy on the provision of minimum qualifications for career advancement and progression;
  - (v) offer professional development of teachers through Teacher Professional Development (TPD); and
  - (vi) provide mechanisms for its monitoring and evaluation
- The Career Progression Guidelines have failed to address these areas.  
The Career Progression Guidelines have failed to attract, motivate and facilitate retention of competent teachers. Teachers in the Public Service are only serving because they have no other options.
28. Based on the facts, and experiences, KNUT made a stand that Career Progression Guidelines should either be reviewed comprehensively or TSC reverts to the Schemes of Service for Teachers Common Cadre Establishment Promotion, and the Competitive Promotion as outlined in Regulations 73, 74, 75 and 76 of Part VI of the Code of Regulations for Teachers (2015).

## 2.5. Teachers Service Commission

On 28<sup>th</sup> November 2024, the Chief Executive Officer of the Teachers Service Commission, Dr. Nancy Macharia, CBS, appeared before the Committee and submitted as follows—

29. The Teachers Service Commission is established under **Article 237 (1)** of the Constitution with the overall mandate of teacher management and regulation of the teaching service as provided under **Article 237(2) and (3)** of the Constitution.
30. As a public organ, the Commission is bound by the National Values and Principles of Governance set out under Article 10 of the Constitution as well as the Values and Principles of Public Service set out under Article 232 of the Constitution.

31. To operationalize the mandate of the Commission, the Parliament enacted the Teachers Service Commission Act and the Code of Regulations for Teachers (CORT). The two legislations provide for powers and procedures within the functions of the Commission. Notably, section 11 of the Act requires the Commission to among others, formulate policies to achieve its mandate.
32. Pursuant to the provisions of Article 237 (2) (d) of the Constitution, the Commission has the mandate to promote teachers under its employment.
33. In discharging this mandate to promote teachers, the Commission observes the values and principles of public service under Article 232 of the Constitution. To this end the Commission has endeavored to apply the principle of fair competition and merit, integrity, transparency and accountability, equity, fairness and impartiality, inclusiveness, non-discrimination and gender equity in the selection and appointment process.
34. Further, the promotion of teachers in public service is premised on CORT, Career Progression Guidelines (CPG) for teachers and the Policy on Selection and Appointment of Institutional Administrators.
35. Specifically, Regulation 73 of the CORT provides for general guidelines in promotion of teachers including: merit and ability as reflected in the teacher's work, performance and results; seniority and experience as set out in the scheme of service; existence of a vacancy; and academic and professional qualifications.
36. On the other hand, the Career Progression Guidelines (CPG) and the policy on Selection and Appointment of Institutional Administrators outlines the skills and competencies necessary for advancement in the profession by providing for minimum requirements for selection, appointment and promotion of teachers at different grades.
37. To this end, all promotion vacancies are filled competitively with the objective to recognize or reward effort, align teachers for succession management/career progression and to motivate employees to perform better in their duties and responsibilities with the aim of improving quality teaching and learning.
38. Promotions in the teaching sector are done under two limbs as follows—

(i) **Common Cadre Promotions**

Promotions under the common cadre is considered based on the following categories: -

- a) *Primary school teachers*: Primary school teachers employed with a **P1 qualification** and are placed in **grade B5**. Upon completion of three years of satisfactory service they are automatically promoted to **grade C1** in the common cadre establishment.
- b) *Secondary school teachers*: Secondary school teachers who are employed with a **Diploma qualification** are placed in **grade C1**. Upon completion of

three years of satisfactory service they are automatically promoted to **grade C2** in the common cadre establishment. Additionally, for Secondary school teachers who are employed with a **degree qualification**, they are placed in **grade C2**. Upon completion of three years of satisfactory service they are automatically promoted to **grade C3** in the common cadre establishment.

39. Accordingly, the Commission has promoted a total of **168,389** teachers on common cadre promotions since 2017 as illustrated in Table 1 below as of November 2024.

No	FINANCIAL YEAR	NUMBER OF TEACHERS PROMOTED			
		B5-C1	C1-C2	C2-C3	Total
1	2017/18	147	540	3,954	4,641
2	2018/19	39	633	4,092	4,764
3	2019/20	2	472	2,693	3,167
4	2020/21	80,844	951	7,412	89,207
5	2021/22	15,663	1,360	11,653	28,676
6	2022/23	8,145	1,111	9,664	18,920
7	2023/24	8,971	600	9,443	19,014
<b>Total</b>		<b>113,811</b>	<b>5,667</b>	<b>48,911</b>	<b>168,389</b>

Table 1. Common Cadre Promotions

(ii) Competitive Promotions

40. Promotions from the common cadre establishments are competitively filled with the objective to promote national values, fairness, non-discrimination, and equity. The promotions are premised on inter alia availability of funds and existence of vacancies in authorized establishments.

41. Promotion of institutional administrators is guided by the Policy on Appointment and Deployment of Institutional Administrators. The policy provides for clear career progression structures to ensure systematic progression, growth and professional development for all teachers. It outlines the experience, academic and professional requirements necessary for appointment and deployment of institutional administrators and further sets the process for career advancement and succession management in institutions.

42. A teacher must meet all the requirements set out in the Policy on Appointment and Deployment of Institutional Administrators to qualify for appointment as an administrator. Additionally, the teachers must show interest by applying when the Commission advertises for the said posts.

43. A summary of teachers promoted in the financial years 2019/2020 to 2023/2024 is as shown in Table 2 below.

S/NO	YEAR	COMPETITIVE
1.	2019/2020	4,006
2.	2020/2021	16,032
3.	2021/2022	2,630
4.	2022/2023	14,730
5.	2023/2024	36,504

**TOTAL**

**73,902**

**Table 2. Summary on Competitive Promotions of Teachers**

44. Pursuant to the implementation of the 2017-2021 CBA and the Career Progression Guidelines, all teachers were promoted in 2017 and thereafter automatically promoted after 3 years for common cadre promotions.
45. Accordingly, it is not true that teachers have stagnated for 15 years. While we admit that some teachers may have stayed in one job group more than three years, the delay in promotion is majorly caused by budget constraints to undertake competitive promotions.
46. Further, the Commission has severally engaged KUPPET on issue of promotions with the most recent engagement being on 9th to 12th April on a workshop in Naivasha where the Commission extensively elaborated to the union the challenges causing delay in promotion of teachers.

## PART FOUR

### 4.0 COMMITTEE OBSERVATIONS

Upon hearing from the Petitioner and other stakeholders, the Committee observed that—


47. Promotions in the teaching sector are done in two establishments namely, the Common Cadre, where teachers in both Primary and Secondary Schools were promoted automatically after serving in one grade for three (3) years and competitive promotions where vacancies were filled competitively subject to availability of vacancies and funds.
48. The TSC had promoted a total of 168,389 teachers on the Common Cadre Establishment between FY2012/2018 and 2023/2024 while 73,902 teachers were promoted on the competitive basis in the FY 2019/2020.
49. All teachers were promoted in 2017 and thereafter, automatically promoted after 3 years for common cadre promotions in line with the provisions of the 2017-2021 CBA and Career Progression Guidelines of 2018.
50. There was no annual budget dedicated for teacher promotions by the National Treasury occasioning stagnation of teachers in one cadre for a long time as the last allocation was done ten (10) years ago.
51. Before the last allocation ten years ago, TSC had proposed for an annual budget of 2 Billion to promote about 400,000 teachers and only 1 Billion was disbursed which was insufficient.
52. There was inadequate budget towards promotion of teachers hence an impediment in the promotion of teachers leading to stagnation yet TSC relies on the budgetary provisions appropriated by the National Assembly for purposes of promotion of teachers.

PART FIVE

5.0 COMMITTEE RECOMMENDATIONS

53. Pursuant to the provisions of Standing Order 227, the Committee responds to the petitions as follows—

- (i) On the prayer that the Committee engages the TSC with a view to address the crisis of teachers' stagnation and career progression in the public service, the Committee recommends that the National Assembly considers appropriating funds in the Financial Year 2025/2026 for promotion of teachers; and
- (ii) The Committee also recommends that the TSC ensures sensitization of teachers on the career progression guidelines and the applicable appraisal tools.

 <b>THE NATIONAL ASSEMBLY PAPERS LAID</b>	
DATE: 23 APR 2025	
DAY: Wed	
TABLED BY:	CHAIRPERSON, PUBLIC PETITIONS COMM
CLERK-AT THE-TABLE:	P MULCA

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



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

22<sup>nd</sup> April 2025.

HON. ERNEST KIVAI OGESI KAGESI, M.P.  
CHAIRPERSON, PUBLIC PETITIONS COMMITTEE

## ANNEXURES

- Annex 1: The Adoption List
- Annex 2: Public Petition No. 46 of 2023 regarding payment of retirement dues and pension for retired teachers
- Annex 3: Minutes of 27<sup>th</sup> Sitting of 2024 held on 18<sup>th</sup> April, 2024
- Annex 4: Minutes of the 54<sup>th</sup> Sitting held on 25<sup>th</sup> September, 2024
- Annex 5: Minutes of the 64<sup>th</sup> Sitting held on 28<sup>th</sup> November, 2024
- Annex 6: Minutes of the 7<sup>th</sup> Sitting held on 11<sup>th</sup> April 2025



REPUBLIC OF KENYA  
THE NATIONAL ASSEMBLY  
THIRTEENTH PARLIAMENT - FOURTH SESSION - 2025  
PUBLIC PETITIONS COMMITTEE

ADOPTION SCHEDULE  
OF THE REPORT ON CONSIDERATION OF PUBLIC PETITION NO. 62 OF 2023  
REGARDING STAGNATION OF TEACHERS PROGRESSION IN PUBLIC SERVICE

DATE.....11-04-2025.....

We, the undersigned Honourable Members of the Public Petitions Committee, do hereby affix our signatures to this Report on the consideration of regarding **Stagnation of Teachers Progression in Public Service** confirm our approval and confirm its accuracy, validity and authenticity:

NO.	NAME	DESIGNATION	SIGNATURE
1.	Hon. Ernest Ogesi Kivai Kagesi, M.P.	Chairperson	
2.	Hon. Janet Jepkemboi Sitienei, CBS, M.P.	Vice Chairperson	
3.	Hon. Patrick Makau King'ola, M.P.	Member	
4.	Hon. Nimrod Mbithuka Mbai, M.P.	Member	
5.	Hon. Joshua Chepyegon Kandie, M.P.	Member	
6.	Hon. Beatrice Kadeveresia Elachi, CBS, 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. (Eng.) Bernard Muriuki Nebart, M.P.	Member	
11.	Hon. Peter Mbogho Shake, M.P.	Member	
12.	Hon. Suzanne Ndunge Kiamba, M.P.	Member	
13.	Hon. John Bwire Okano, M.P.	Member	
14.	Hon. Peter Irungu Kihungi, M.P.	Member	
15.	Hon. Sloya Clement Logova, M.P.	Member	



**REPUBLIC OF KENYA  
THE NATIONAL ASSEMBLY  
THIRTEENTH PARLIAMENT (SECOND SESSION)**

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**CONVEYANCE OF A PUBLIC PETITION**

*(No. 62 of 2023)*

**ON STAGNATION OF TEACHERS' PROGRESSION**

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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.** In this regard, **Honourable Members,** I wish to report to the House that my office has received a petition from the Kenya Union of Post Primary Education Teachers (KUPPET) calling for *urgent intervention by the National Assembly in addressing the matter of stagnation of teachers.*
- 3.** The petitioners aver that KUPPET is the largest and most influential professional association in Kenya, given that it draws its members from teachers serving in secondary schools and teachers' training colleges across the country.
- 4. Honourable Members,** the petitioners decry the perennial stagnation of teachers that has led to situations where teachers remain in one job grade for more than five years, and in extreme cases, some teachers have not been promoted for fifteen years.
- 5.** The petitioners fault the Teachers Service Commission (TSC) for failing and/or refusing to promote thousands of teachers despite the existence of unambiguous policies that clearly provide for teachers' career progression.

**6. Honourable Members,** the petitioners further decry the numerous unsuccessful engagements with the Teachers Service Commission (TSC), and have thus sought the urgent intervention of this House in resolving the ongoing teachers' promotions stagnation and challenges in career progression.

**7. 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, or any constitutional or legal body, I hereby commit the petition to the Public Petitions Committee for consideration pursuant to Standing Order 208A.

**8.** The Committee is required to consider the petition and report its findings to the House and to the petitioners in accordance with Standing Order 227(2).

*Wetang'ula*

**THE RT. HON. (DR.) MOSES F.M. WETANG'ULA, EGH, MP  
SPEAKER OF THE NATIONAL ASSEMBLY**

**Date.....**



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

**MINUTES OF THE 27<sup>TH</sup> SITTING OF THE PUBLIC PETITIONS COMMITTEE HELD ON WEDNESDAY, APRIL 18, 2024, IN THE COMMITTEE ROOM 12, GROUND FLOOR, NEW WING, MAIN PARLIAMENT BUILDINGS AT 12.00. P.M**

**PRESENT**

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

**IN ATTENDANCE**

1. Hon. Charles, Ngusya, MP - Petitioner
2. Mr. Daniel Kiteme - National Chairman Senior National Head teachers
3. Mr. Githu Geoffrey - Teacher
4. Hon. Peter Shake, MP - Petitioner
5. Mr. David Babu - Retired Teacher (Principal)
6. Mr. Timothy Mwazo - Retired Teacher (Chair Taita Taveta Retired Teachers Association)
7. Hon. Benard Kitur, MP

**SECRETARIAT**

1. Ms. Miriam Modo - Clerk Assistant I
2. Ms. Anne Shibuko - Clerk Assistant I

- |                         |   |                               |
|-------------------------|---|-------------------------------|
| 3. Ms. Patricia Gichane | - | Legal Counsel II              |
| 4. Ms. Felistas Muiya   | - | Public Communications Officer |
| 5. Mr. Martin Sigei     | - | Research Officer III          |
| 6. Mr. Calvin Karungo   | - | Media Relations Officer III   |
| 7. Mr. Peter Mutethia   | - | Audio Officer                 |

**MIN./PPETC/2024/ 167: PRELIMINARIES**

The Chairperson called the meeting to order at 12:00 p.m. and proceedings began with prayers by Hon. John Bwire Okano, M.P.

**MIN./PPETC/2024/168: ADOPTION OF AGENDA**

**AGENDA**

1. Prayer
2. Adoption of the Agenda
3. Confirmation of minutes of previous sittings
4. Matters Arising
5. Consideration of Public Petition No. 47 of 2023 regarding the Deployment of Classroom Teachers as Head Teachers in Schools across the Country
  - *Meeting with Petitioner, Hon. Charles Ngusya, MP*
6. Consideration of Public Petition No. 52 of 2023 regarding Ban of Asbestos as roofing material in the Country
  - *Meeting with the Petitioner, Hon. Ibrahim Abdi, MP*
7. Consideration of Public Petition No. 46 of 2023 regarding the Payment of Retirement Dues and Pension Dues to Retired Teachers
  - *Meeting with the Petitioner, Hon. Peter Shake, MP*
8. Consideration of Public Petition No. 5 of 2024 regarding Illegal Acquisition of Parcels of Land known as Kapkaron Farm LR. No. 6053 in Nandi Hills Sub County, Nandi County
  - *Meeting with the Petitioner, Hon. Bernard K. Kitur, MP*
9. Any Other Business
10. Adjournment

The Agenda was adopted to constitute business having been proposed Hon. Peter Mbogho Shake, M.P. and seconded by Hon. Bernard Muriuki, M.P.

**MIN./PPETC/2024/169: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS**

The Agenda was deferred

MIN./PPETC/2024/170:

CONSIDERATION OF PUBLIC PETITION NO. 47 OF  
2023 REGARDING THE DEPLOYMENT OF  
CLASSROOM TEACHERS AS HEAD TEACHERS IN  
SCHOOLS ACROSS THE COUNTRY

Meeting with the Petitioner, Hon. Charles Ngusya, MP

The Hon. Charles Ngusya, MP appeared before the Committee and presented as follows—

1. The Teachers Service Commission (TSC) and Kenya National Union of Teachers (KNUT) signed the July 2017 CBA which among other things provided for an agreement for remuneration payable to teachers as determined by the provisions of Articles 41, 237 and 230(4) of the Constitution of Kenya;
2. Before the July 2017 CBA, there were about 1,000 classroom teachers, who were promoted to the then job group M after a successful competitive interview for senior graduate teacher. Some of the teachers were deployed to become headteachers from 2018 while others remained as senior teachers;
3. Despite their additional roles and qualifications, the deployed headteachers remained in the same job group C5 (formerly job group M) and their salaries and allowances did not change as per the requirement of the July 2017 CBA;
4. Their counterparts who went through the same interview and became headteachers before the July 2017 CBA are now in job group D1 and earning higher salaries and allowances;
5. The two categories of teachers have the same qualifications, same job group, are performing same roles and facing the same challenges yet they earn different salaries and allowances contrary to section 5(1) of the Labour Relations Act 2007;
6. There exist discrepancies where some senior graduate teachers are head teachers yet others with the same qualifications are still in job group C5 instead of job group D1. Additionally, their monthly salary and allowance difference is about Kshs. 25,000 at the lowest and Kshs. 36,000 at the highest;
7. Further, this group was neither factored in the recent advertised TSC promotions for 14,738 teachers, nor in the 12,634 tutors slated for promotion;
8. Due to the aforementioned concerns, the teachers feel discriminated and are demoralized even as they continue to undertake their duties;
9. The teachers have made their best efforts to have the matter addressed including writing individual letters to TSC seeking fair remuneration and engagement with Kenya National Union of Teachers (KNUT) to intervene but there were no satisfactory responses or action.

## Prayers

The petitioners prayed that the Committee engages TSC to:

10. Review the salaries and allowances of the concerned deployed teachers and place them at par with their colleagues who undergone the same interview and became headteachers before the July 2017 CBA;
11. Pay the teachers the arrears from the period between their deployment as headteachers till now.

The National Chairperson of Senior National Headteachers, Mr. Daniel Kiteme appeared before the Committee and presented as follows—

1. In the CBA 2017-2021, job group M was renamed C5, and teachers were given the title deputy headteacher 1. They were deployed to serve as deputy headteachers and headteachers under the same job group from 2017 onwards, while others remained as classroom teachers, senior teachers, and deputy headteachers.
2. All teachers who were senior graduates/approved teachers in job group M and were not administrators before the CBA receive the same pay regardless of deployment status.
3. Deputy Headteacher 1 (job group C5) was a grade assigned to all teachers in job group M who were not administrators. This grade was not a promotional grade for deputy headteacher 2, contrary to career progression requirements. Since the conception of the July 2017 CBA, deputy headteacher 2 (job group C4) had conducted interviews for headteacher positions (job group C5) as evidence that Deputy Headteacher 1 and Headteacher in job group 5 are not the same.
4. Upon deployment of some teachers to headteacher positions by TSC, they retained the title of Deputy Headteacher 1 with no adjustment in pay to the next job group, D1, despite assuming the additional role and responsibility of a headteacher.
5. TSC indicated that job group C5 was already a grade for headteachers, and the only change they could make was to alter the title from deputy headteacher 1 to headteacher without any monetary adjustments. This contradicted the Career Progression Guidelines of 2018, which specify that both deputy headteacher 2 and deputy headteacher 1 have defined roles distinct from that of the headteacher, and they both report to the headteacher.
6. There exists a discrepancy where some senior graduate teachers in job group M serving as headteachers are in job group D1, while others (the petitioners) with the same qualifications are still in job group C5 instead of D1. Both job groups require the same qualifications, entail similar roles, and face identical challenges.

7. The Petitioners, through Kenya Primary Schools Headteachers Association (KEPSHA), compiled a list of about 380 affected teachers nationwide, including some who had passed away, retired, or were still in service. The petitioners requested compensation for the period during which they did not receive pay commensurate with their job group and responsibilities.

### Committee Concerns

1. **Regarding the difference between CBA before and after 2017**, the Petitioners indicated that the teachers did interviews and were The Petitioners highlighted a distinction between the Collective Bargaining Agreement (CBA) pre- and post-2017, stating that teachers underwent interviews and were promoted to job group M without administrative responsibilities. Pre-2017 CBA, these teachers were designated as classroom teachers in job group M, without administrative duties. In 2018, they were deployed with administrative roles but retained within the same salaries despite passing the interviews and getting the new appointments.
2. **Concerning the terms and conditions of service across different job groups and cadres**, the teachers pointed out that the Code of regulations for teachers, the Employment Act, 2007, Career Progression Guidelines 2018, and the reference manuals of the CBA 2017-2021, delineated these terms and conditions. Addressing the consistency of these terms post-deployment, the teachers clarified that while their deployment letters specified promotion to headships, they were silent on the terms and conditions. However, according to the Code of Regulations, deployment to a higher post (vertical!) constituted promotion, whereas deployment across departments within the institution resulted in the teacher remaining in the same position (horizontal).
3. **Regarding whether the various job groups were overlapping within same salary scale**, the petitioners asserted that the job groups for classroom teachers, senior teachers, deputy headteachers, and headteachers overlapped, marking a unique unprecedented situation. Despite meeting the qualifications for headteacher roles under job group C5, upon writing letters to the TSC, they were verbally informed of being overqualified. However, no additional allowances were granted to them. While some teachers received responses to their letters, others did not. Upon assuming headship roles, the teachers received neither responsibility allowance nor any other benefits.
4. **Regarding their proposal to compensate retired teachers retroactively for their benefits and allowances**, the teachers suggested that the Committee should recommend finding a way to compensate retired teachers and promote those currently in service.

MIN./PPETC/2024/171:

CONSIDERATION OF PUBLIC PETITION NO. 52 OF  
2023 REGARDING BAN OF ASBESTOS AS  
ROOFING MATERIAL IN THE COUNTRY

Meeting with the Petitioner, Hon. Ibrahim Abdi, MP

The Agenda was deferred.

MIN./PPETC/2024/172:

CONSIDERATION OF PUBLIC PETITION NO. 46 OF  
2023 REGARDING THE PAYMENT OF  
RETIREMENT DUES AND PENSION DUES TO  
RETIRED TEACHERS

Meeting with the Petitioner, Hon. Peter Shake, MP

1. The government provides retirement benefits to public officers as part of their terms of service, with a view to providing them with social security in old age as stipulated in Article 43(1)(e) of the Constitution. The provision of retirement benefits to public officers is intended to ensure a smooth transition from active service with employment income, to retirement with a certain level of replacement income. This is so that the standard of living for public officers does not change drastically in old age.
2. The Pensions Act (Cap.189) makes provisions for granting and regulating the payment of pensions, gratuities and other allowances in respect of the public service for officers under the Government of Kenya.
3. Despite the foregoing provisions, there are retired teachers in the Republic of Kenya who served under the Teachers Service Commission (TSC) who have never been paid their retirement dues and pension.
4. In Mwatate Constituency just like other constituencies in the Republic of Kenya the said retired teachers served in different schools and retired in different years. Some of the retired teachers have neither been communicated to by their employer, TSC up to date nor paid their monthly pension and or the lumpsum for the services they offered during their years of service.
5. The continued non-payment of the retirement benefits and pensions have subjected teachers to live in deplorable state. The non-paid retired teachers of Mwatate Constituency retired from the period ranging 2011 and 2022 and some of them are now suffering ailments associated with old age hence causing them unbearable financial needs.

## Prayers

The Petitioner prayed that the Committee:

1. Engages the TSC to establish the circumstances that have occasioned the delayed payment of retirement benefits of the retired teachers in Mwatate Constituency and the entire country;
2. Engages the TSC to provide data and statistics of all unpaid retired teachers in the entire country and indicates when they will pay all the retirement dues of the said teachers; and
3. Makes any other recommendation or action it deems fit in addressing the plight of the Petitioners.

The Petitioners represented by retired teacher, Chairperson Taita Taveta Retired Teachers Association) retired teacher, Mr. David Babu and Mr. Timothy Mwazo appeared before the Committee and submitted as follows—

1. Many retired teachers nationwide were yet to receive their retirement dues, causing financial strain as most of them lack alternative sources of income and rely heavily on these payments immediately after leaving service.
2. Two years prior to retirement, teachers are normally issued a notice of retirement and required to submit all necessary documents pending clearance letter from their school and a certificate from the Kenya Revenue Authority (KRA). However, upon reaching their retirement date, the Teachers Service Commission (TSC) fails to communicate with them.
3. In response to this situation, the teachers sent a demand letter to the TSC on 19<sup>th</sup> April 2023, seeking clarification. The TSC replied on June 9, 2023, stating that they had not received the requisite documents to proceed with the teachers' request for payment from the National Treasury. However, the retired teachers maintain that they had submitted all required documents in a timely manner. Consequently, they suspect negligence on the part of the TSC, which has resulted in significant delays in processing their retirement benefits. Further, some teachers who retire mid-month would not receive all their salary and allowances for their last month at work.
4. Some teachers have fallen victim to scams, losing money in attempts to seek assistance with the processing of their retirement dues. Allegedly, certain individuals posing as representatives from the Teachers Service Commission (TSC) and the Pension Department have contacted teachers, falsely claiming they could expedite the processing of their files.
5. Those who succumbed to these fraudulent offers and paid for such assistance reportedly had their files expedited to the National Treasury. However, those who refrained from paying faced the risk of encountering delays or even the

possibility of their files disappearing altogether. This situation highlights the vulnerability of retired teachers and underscores the need for greater vigilance and protection against fraudulent schemes.

6. Further, the formula for calculating the retirement benefits was not clear and allegedly not honoured and whenever teachers sought clarity, no one responded.
7. The Committee should consider recommending that the Teachers Service Commission (TSC) continue paying the salaries of retired teachers until they receive their retirement dues. This measure aims to alleviate the financial burden experienced by retired teachers during the transition period.
8. Sometime the Pensions Department and TSC reports that they have released money and processed the retirement dues for teachers but in reality, teachers were suffering as many teachers were not receiving the monies in time.

#### Committee Concerns

The Committee inquired with the petitioners to gather information on specific cases of teachers whose retirement benefits had been delayed or who had fallen victim to scams. The petitioners acknowledged the need for detailed information on these cases, recognizing that some retired teachers may be hesitant to come forward. They committed to providing further details on such cases to facilitate the Committee's investigation and ensure that appropriate action is taken to address these issues effectively.

#### Committee Resolution

After deliberations, the Committee requested the petitioners to furnish copies of the demand letter sent to the Teachers Service Commission (TSC) and the responses received from the TSC. Additionally, the Committee requested details on retired teachers who had not yet received their retirement dues. This information would enable the Committee to comprehensively assess the situation and take appropriate steps to address the concerns raised by the petitioners regarding delays in retirement benefits.

MIN./PPETC/2024/173:

CONSIDERATION OF PUBLIC PETITION NO. 5 OF  
2024 REGARDING ILLEGAL ACQUISITION OF  
PARCELS OF LAND KNOWN AS KAPKARON FARM  
LR. NO. 6053 IN NANDI HILLS SUB COUNTY,  
NANDI COUNTY

#### Meeting with the Petitioner, Hon. Bernard K. Kitur, MP

The Hon. Benard Kitur, MP, appeared before the Committee and submitted as follows—

1. That Kapkaron Farm LR. No 5423/2 and LR. 6053 located in Nandi County was part of a parcels of land expropriated by the White Colonial Settlers in the early 1940s.
2. Following negotiations with the community and the local leadership, Kakuzi Limited, who were the last owners of the farms, were willingly to give back parts of blocks of the lands to the community for establishment of public institutions and settlement of squatters.
3. Among the Blocks of land donated by Kakuzi Ltd, to the community was Septon, Title No. 5423/2 measuring 433.02 Ha. In particular, 242 acres (96.44 ha) was to be used for the establishment of Kapkaron Technical (Secondary) School and Block (Septon Syndicate) of Title No. 6053 measuring 440 acres earmarked for the settlement of squatters.
4. Between April to August 1985, Hime & Zimmerline (licensed surveyors) began the initial discussion on how the matter of expunging the land Title No. 5423/2 from the bigger block. On 26<sup>th</sup> January, 1993, Kaplan & Stratton law firm did a letter that enclosed the schedule of shareholders of both Siret Tea Company Ltd and Kakuzi Ltd as the transfer was first to move both lands (LR. 5423/2 and LR. 6053) from Siret Tea Company Ltd to the parent holding company, Kakuzi Ltd then from the latter to the squatters' legally registered firm.
5. On 24<sup>th</sup> March, 1993, Kakuzi Ltd did a letter to the community through the Chairman of Kapkaron Farmers' Co-operative Society Ltd, in response to a letter the community had done on 5<sup>th</sup> March 1993 and confirming that the company was still committed to donating LR No. 6053 in addition to LR No. 5423/2 to the community for construction of the said Technical Secondary School.
6. On 2<sup>nd</sup> June, 1993, Mr P. N Mogire on behalf of the Commissioner of Lands gave a final sub-divisional approval of LR NO. 5423/2 (433.02 Ha) and excised 96.88 Ha placing the new title number of the Block for the community as LR No. 5423/4.
7. On 2<sup>nd</sup> July, 1993, a Gazette Legal Notice No. 173 was published where Siret Tea Company Ltd transferred LR No. 5423/2, 1070 acres and LR No. 6053 of 440 acres among others.
8. On 24<sup>th</sup> June, 1994, Block LR No. 5423/2 was transferred from Siret Tea Company Ltd to Kakuzi Ltd, and the same day the same parcel of land was allegedly transferred illegally from Kakuzi Ltd to a private developer by the name Tinderet Development Trust Company.
9. The said Tinderet Development Trust Company Ltd is a non-existent company as per the response letter from the Registrar of Companies dated 6<sup>th</sup> August, 2015 which then makes the transfer of the community land to a phantom company null and void.

10. Kakuzi Ltd is yet to declare the status of LR No. 6053 which they had expressly intended as a company to unequivocally transfer to the community vide letter dated 24<sup>th</sup> March 1993.

### Prayers

The petitioner prayed that the Committee:

1. Engages the Ministry of Lands, Public Works, Housing and Urban Development and other relevant authorities with a view to investigating into the alleged irregular, illegal and acquisition of Kapkaron Farm LR. No 5423/2 and LR. 6053 by Tinderet Development Trust Company.
2. Recommends that squatters who have settled for more than 50 years in Kapkaron Farm LR. No 5423/2 and LR. 6053 be given priority during settlement of residents in the area.
3. Recommends for investigations into conduct of land settlement officers for failing to adhere to the provisions of the Land Act, 2012; and, Leadership and Integrity Act, in the course of their duties while settling residents; and, that appropriate disciplinary action be taken.

The Petitioner also provided further information and evidence before the Committee as follows:

1. An overview map of the land indicating the land which the petitioners were interested in (LR 5423 (96.88 acres) and LR 6053). The remaining part of the land was a portion referred to as Ainop-Maget where the community used as a place for circumcision and other cultural practices (*Kipkiyai*) and the white settler were willing to give that portion. However, the day Tinderet Development Trust Company Ltd took over the LR. No. 5423/4, the land earmarked for the cultural and water conservation site was also taken and tea planted leaving only a small stretch which has the watercourse.
2. In the letter of the proposed excision from Siret Estate and Septon Estate, Nandi Hills from the licensed surveyor, Hime & Zimmerline to Kakuzi Ltd on 30<sup>th</sup> April 1985, the subdivisional application was subject to the consent of Land Control Board but required that the transferees be a legally recognised body. Therefore, bringing in Tinderet Development Trust Company was to purport to have an organisation that caters for the community interest as a trust but it was a decoy company.
3. A letter by the then Minister of Cooperative Development to the Commissioner of Lands on 3<sup>rd</sup> October 1985 enclosed copies of two letters by the licensed surveyor, Hime & Zimmerline acting on behalf of Siret Tea Company requesting for subdivision approval of two pieces of land which were being donated to the squatters and building of a technical school.

4. In a letter from Hime & Zimmerline to the County Council of Nandi and Tinderet Land Control Board, dated 2<sup>nd</sup> August 1989 regarding LR No. 5423/2, Nandi Hills, the surveyor enclosed a plan copy showing the location of the proposed excision from LR No. 5423/2. That the excision was proposed Kapkaron Technical Secondary School and the then proprietor was Siret Tea Company.
5. Kaplan & Stratton law firm acting on behalf of Siret Tea Company wrote to the Commissioner of Lands vide a letter dated 30<sup>th</sup> October 1991 appraising the Ministry of Lands on the process of subdivision of the land LR No. 5423/2, Nandi Hills.
6. The lawyer, Kaplan & Stratton law firm and the surveyor, Hime & Zimmerline engaged the Commissioner of Lands severally in a bid to fast-track the process of subdivision of the land. The Ministry of Lands responded to Hime & Zimmerline vide letter dated 21<sup>st</sup> January 1993 regarding subdivision approvals indicating regret in the delays in making the approvals and promising to take up the matter.
7. Kaplan & Stratton writing to the Commissioner of Lands vide letter 26<sup>th</sup> January 1993 regarding transfer of properties by Siret Tea Company to Kakuzi Ltd, included four parcels; LR No. 5423/1, LR No. 6047/4, LR No. 6053 and LR No. 1475/6, Nandi Hills.
8. Kakuzi Ltd. vide a letter dated 24<sup>th</sup> March 1993 wrote to the Kapkaron Farmers' Cooperative Society regarding LR No. 6053 and acknowledging delays in transfers of the land donated for a technical school and emphasising the intention of using the land for the same purpose as agreed. However, Kakuzi Ltd clarified that until the transaction was complete, the land was still its property.
9. A Gazette Notice dated 22<sup>nd</sup> May 1993 indicated the proposed transfer from Siret Tea Company Ltd to Kakuzi Ltd of LR No. 5423/1 (1,070 acres), LR No. 604/4 (593.3 Ha), LR No. 6053 (440 acres) and LR No. 1475/6 (388 acres).
10. Mr. P.N Mogire from Commissioner of Lands in a letter dated 2<sup>nd</sup> June 1993 to Hime & Zimmerline confirmed the final approval of the proposed subdivision of LR No. 5423/2 (433.02 Ha).
11. After the completion of the transfer of the land to Kakuzi Ltd., for Kshs4,050,390 on 24<sup>th</sup> June 1994, the land LR No. 5423/4 (96.88 Ha) was transferred as a gift to Tinderet Development Trust Company Ltd on the same day. Further, the Registrar of Companies in a letter dated 6<sup>th</sup> August 2015 indicated that Tinderet Development Trust Company Ltd. did not exist in its database or register.

## Committee Concerns

1. The Committee sought clarifications regarding the lands sought for investigations and regarding whether the LR No. 5423/2 and LR No. 6053 were both acquired by Tinderet Development Trust Company. Kakuzi Ltd was only a managing agent before. The land LR 5423/2 was originally owned by two brothers and a lady who never even stepped foot in Kenya hence the section of the land was used for the entire period. Therefore, Siret Tea Company was owning it on behalf of the lady and Kakuzi Ltd was the managing agent. When the lady passed on, the land was moved from Siret Company to Kakuzi Ltd. However, the purported owner of Tinderet Development Trust Company had interest in Kakuzi Ltd. The Petitioner clarified that the land in question was Siret Tea Company Ltd.'s farm LR No. 5423/2.
2. Regarding whether an official search from the Ministry of Lands after the 2015 search to establish the current owner of the land in question. The Petitioner indicated that the investigation about the company could not reveal its records. The Petitioner requested the Committee to invite the following stakeholders to provide clarity on the matter:
  - i. The Business Registration Service (BRS) to provide information whether Tinderet Development Company Ltd. exists or not;
  - ii. Postal Corporation of Kenya to provide information regarding the owners of the postal addresses mentioned to belong to Tinderet Development Trust Company Ltd. The Ministry of Lands provides the chronology of the ownership of the land LR. No. 5423/2 to date;
  - iii. National Lands Commission (NLC)
  - iv. Hime & Zimmerline Licences Surveyors;
  - v. Kaplan & Stratton Law Firm;
  - vi. The purported Tinderet Development Trust Company Ltd. to be invited to provide a background of the land;
  - vii. Siret Tea Company and Kakuzi Ltd.
  - viii. The former of Parliament for Tinderet Constituency, Hon. Henry Kosgey to provide clarity.
3. Regarding the status of the land in question, the Petitioner clarified that in 1989 a leader of the region came and explained to him of the plain land which had squatters and requested for help in settling them. In the early 1990s, the community was evicted and the land acquired and tilled. Those who refused to leave were surrounded by the tea plantation but again later moved. Some of those who accepted to move were taken elsewhere and promised to be given land by government but the entire process was not done well and they were later chased away from the land they had been taken for purposes of resettlement. Currently the entire land is a tea plantation. The matter was extremely painful and emotive matter to the Nandi Community.
4. The source of information about the ownership of land under Siret Tea Company, the Petitioner clarified that information was transferred by the locals who worked in the tea estate and witnessed the occurrences. Further, part of

the land owned by Siret Tea Company was even sold to some locals and the other part was taken by Tinderet Development Trust Company. However, the Petitioner unable to affirm the information based on documentation as that would be provided by the company itself. Further, some documentation could not be accessed by the Petitioner.

MIN./PPETC/2024/174:

ANY OTHER BUSINESS

**Site visit inquiry in the Coast region**

The Secretariat briefed the Committee that the upcoming site visit inquiry scheduled for Wednesday, 24<sup>th</sup> April 2024 to Sunday, 28<sup>th</sup> April 2024 in Taveta, Jomvu and Lungalunga Constituencies.

MIN./PPETC/2024/175:

ADJOURNMENT AND DATE OF NEXT MEETING

The Chairperson adjourned the meeting at 03:00 p.m. The next meeting will be held on Tuesday, 23<sup>rd</sup> April 2024 at 12:00 p.m.

Sign:  .....

(CHAIRPERSON)

Date 5/06/2024 .....



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

**MINUTES OF THE 54<sup>th</sup> SITTING OF THE PUBLIC PETITIONS COMMITTEE HELD ON WEDNESDAY, SEPTEMBER 25, 2024, IN CONFERENCE ROOM 12, NEW WING, MAIN PARLIAMENT BUILDINGS AT 11.00. A.M**

**PRESENT**

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

**APOLOGIES**

1. Hon. Patrick Makau King'ola, M.P.
2. Hon. Bidu Mohamed Tubi, M.P.
3. Hon. Suzanne Ndunge Kiamba, M.P.
4. Hon. Sloya Clement Logova, M.P.

**IN ATTENDANCE**

**SECRETARIAT**

- |                         |                              |
|-------------------------|------------------------------|
| 1. Mr. Ahmed Kadhi      | Principal Clerk Assistant II |
| 2. Ms. Roselyn Njuki    | Senior Sergeant-at-Arms      |
| 3. Ms. Anne Shibuko     | Clerk Assistant I            |
| 4. Ms. Peninnah Simiren | Legal Counsel II             |
| 5. Mr. Isaac Nabiswa    | Legal Counsel II             |
| 6. Mr. Willis Obiero    | Clerk Assistant III          |
| 7. Mr. Martin Sigei     | Research Officer III         |
| 8. Ms. Nancy Akinyi     | Research Officer III         |
| 9. Mr. Peter Mutethia   | Audio Officer                |
| 10. Mr. Calvin Karungo  | Media Relations Officer III  |

**PETITIONERS (KUPPET)**

- |                      |                                  |
|----------------------|----------------------------------|
| 1. Mr. Akelo Misori  | Secretary General                |
| 2. Mr. Julius Murgor | Vice Chairperson                 |
| 3. Mr. Paul Maingi   | Organizing Secretary             |
| 4. Mr. John Onyando  | Director Communications/PA to SG |

## Kenya National Union of Teachers (KNUT)

- |                          |                           |
|--------------------------|---------------------------|
| 1. Mr. Joseph Langat     | Chairperson               |
| 2. Mr. Collins Oyuu      | Secretary General         |
| 3. Mr. Hesbon Otieno     | Deputy Secretary General  |
| 4. Mr. Kennedy Nyamwanda | Deputy National Treasurer |
| 5. Ms. Mercy Kiambati    |                           |
| 6. Mr. Mark Oseno        | Senior Executive Officer  |
| 7. Mr. John Machio       | Senior Executive Officer  |
| 8. Mr. John Oballah      | Executive KNUT Officer    |

## Bohemian Flowers Limited

- |                       |                                    |
|-----------------------|------------------------------------|
| 1. Mr. Camillo Serano | Director                           |
| 2. Ms. Loreen Kimuyu  | Head of Human Resource             |
| 3. Mr. Fay Odoo       | Legal Counsel                      |
| 4. Mr. Vimset Gamani  | HR Officer                         |
| 5. Mr. Okwech Achando | Advocate                           |
| 6. Mr. Arthur Mwangi  | Payroll Manager                    |
| 7. Mr. Wesley Siele   | Agricultural Employees Association |

### MIN./PPETC/2024/337: PRELIMINARIES

The Chairperson called the meeting to order at 11:00 am. and proceedings began with prayers by Hon. (Eng.) Bernard Muriuki Nebart, M.P.

### MIN./PPETC/2024/338: ADOPTION OF AGENDA

#### AGENDA

1. Prayer
2. Adoption of the Agenda
3. Confirmation of minutes of previous sittings
4. Matters Arising
5. Consideration of P/No. 62 of 2024 regarding Stagnation of Teachers' Progression P/No. 62 of 2023
  - *Meeting with the Petitioners (KUPPET)*
6. Meeting with KNUT in consideration of-
  - *P/No. 47 of 2023 regarding Deployment of Classroom Teachers as Head Teachers in Schools across the Country; and*
  - *P/No. 62 of 2024 regarding Stagnation of Teachers' Progression P/No. 62 of 2023.*
7. Consideration of P/No. 63 of 2024 regarding Former Workers of Bohemian Flowers Limited in Nakuru County
  - *Meeting with Bohemian Flowers Ltd*
8. Any Other Business
9. Adjournment

The Agenda was adopted to constitute business having been proposed by Hon. Ernest Ogesi Kivai, M.P. and seconded by Hon. John Walter Owino, M.P.

MIN./PPETC/2024/339:

CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

The agenda was deferred.

MIN./PPETC/2024/340:

CONSIDERATION OF P/NO. 62 OF 2024 REGARDING STAGNATION OF TEACHERS' PROGRESSION P/NO. 62 OF 2023

Meeting with the Petitioners (KUPPET)

The General Secretary, KUPPET, Mr. Akelo Misoro appeared before the Committee and submitted as follows:

1. KUPPET is the largest and most influential professional association in Kenya given that it draws its members from teachers serving secondary schools and teacher training colleges across the country.
2. The perennial stagnation of teachers that has led to situations where teachers remain in one job grade for more than five years. In extreme cases, some teachers have not been promoted for 15 years.
3. The Teachers Service Commission (TSC) has failed to promote thousands of teachers despite the existence of unambiguous policies that clearly provide for teachers' career progression, despite numerous unsuccessful engagements.
4. Thus, they have sought the urgent intervention of this House in resolving the ongoing teachers' promotion stagnation and challenges in career progression.
5. Stagnation has been a big concern to members over the years. In 2023, KUPPET conducted a survey that revealed a truly dire situation. By that time, more than 60,000 teachers had served in one job group for more than five years-which constitutes stagnation.
6. The findings of our research to the Education Committee that saw Parliament appropriate a budget for promotions in 2023/2024 budget.
7. The Sh1 billion allocated enabled the Teachers Service Commission to promote 4,000 teachers who had stagnated in service. Together with common cadre and annual increments, the Commission promoted more than 50,000 teachers in the last financial year.
8. However, out of the qualified teachers who were shortlisted and interviewed, the TSC left out 130,000 teachers due to financial constraints.
9. The number of teachers who have stagnated in Service is approximate 180,000, from both secondary and primary schools.
10. The TSC sought a budget of Sh2.3 billion for promotions this year. Along with the annual increments, that would benefit another 50,000 teachers.
11. Unfortunately, Honourable Members, no money was provided for this budget line. In fact, out of this house, not many people seem to know how much

money has been provided for employment of teachers, for JSS and other programmes including teachers' medical cover.

12. The education budget for 2024/2025 has been amended through the Appropriations, Act, the first supplementary budget and other circulars from the Treasury and the Ministry of Education. These many documents have left KUPPET and key stakeholders in the dark.
13. Promotions was a major grievance for KUPPET in our recently concluded strike The Court Consent we entered with the Teachers Service Commission is based on the two parties' expectation that the House will provide funds to the Commission.
14. KUPPET urged Parliament to support administrative reforms at the TSC, such as the abolition of Career Progression Guidelines, to make it easier for teachers to grow even if they do not become administrators.

### Committee Concern

The Committee noted with concern that matters submitted in the Memorandum did not have specific prayers that KUPPET sought from the Committee. The Petitioners requested more time to present clear prayers on the Petition within one week.

### Committee Resolution

After deliberations, the Committee resolved that the Petitioners, KUPPET presents clear prayers on the Petition within one week.

MIN./PPETC/2024/341:                    MEETING WITH KENYA NATIONAL UNION OF TEACHERS (KNUT)

The Secretary General of KNUT, Mr. Collins Oyuu appeared before the Committee and made submissions on the two petitions as follows—

### P/No. 47 of 2023 regarding Deployment of Classroom Teachers as Head Teachers in Schools across the Country

1. Kenya National Union of Teachers (KNUT) is a Trade Union and professional organization that participates in all matters calculated to lead to improvement of Education and to promote the establishment of a common system of Education in in the country.
2. The Union provides means for co-operation among teachers and the expression of their collective opinions, views and decisions upon matters affecting the interest of Education and the Teaching profession in Kenya.
3. KNUT is also charged with the responsibility of settling disputes between members of the Union or between its members and their employer and to regulate relations between them by collective and constitutional means.
4. The petitioners pray that the National Assembly through the Public Petitions Committee engages the Teachers Service Commission (TSC) to review the

salaries and allowances of the concerned deployed teachers and place them at par with their colleagues who went through the same interviews and became Headteachers before the commencement of the 2017/2021 Collective Bargaining Agreement (CBA).

5. Kenya National Union of Teachers in 2018, and later in 2021 sought to be furnished with full information and data on classroom teachers who were deployed as Headteachers across the country.
6. The union was aptly briefed that the Commission in consultation with Salaries and Remuneration Commission (SRC) conducted Job Evaluation for the Teaching Service in 2015/2016. Based on the findings of the Job Evaluation, SRC submitted recommendations on a new grading structure and remuneration of teachers.
7. The cardinal objective of Job Evaluation was to determine the relative worth of jobs within the Teaching Service with a view to linking remuneration and benefits to responsibility assigned to a teacher.
8. The Teaching Service was categorized into two major groups: - Administrators and Non-Administrators. The Administrators in Primary schools comprised of Headteachers (C5 to D1 - Job Group G - N); Deputy Headteachers (C4 to D1 - Job Group G to N); Senior teachers (C2 to D1 - Job Group G to N); Non-Administrators comprised of classroom teachers in Job Group H, G and J - B5 to C1).
9. Teachers adopted new job titles and related grades. Thereafter, in 2018 the Commission developed Career Progression Guidelines (CPGs) for teachers and policy on appointment and deployment of teachers as institutional administrators.
10. Therefore, classroom teachers who were deployed to headship positions qualified, and indeed deserved salary and allowance increase based on the 2017/2021 CBA. However, the CBA expired before all of them were considered for enhanced salary and allowance.
11. Through established channels and correspondences, KNUT sought the remedy from the Commission over what would happen to teachers who were not promoted yet the CBA had expired, but TSC asserted that these teachers were not promoted but only deployed, as such, since they already had grades that are commensurate to the Headteachers' grades. They were deployed later when vacancies arose.
12. For instance, there exist discrepancies where some senior graduate teachers are Headteachers yet others with the same qualifications are still in Job Group C5 instead of Grade D1. Additionally, their monthly salary and allowance difference is about KShs. 25,000 at the lowest and KShs. 36,000 at the highest. The salary is different because these teachers are in different pay grades (pay points)-C5 and D1.
13. Where the petitioner states that classroom teachers who were deployed to headship were neither factored in the advertised TSC promotion for 14,738 teachers, nor in the 12,634 tutors for promotion. According to Labour

Relations Act (2007), promotion means an elevation to a higher post usually with an increase in salary and/or benefits.

14. These teachers were not promoted but deployed, as such, since they already had grades that are commensurate to the Headteachers grade. They were deployed when vacancies arose.
15. Moreover, through established channels and correspondences, KNUT has made the best efforts to have the misunderstanding between TSC and classroom teachers who were deployed to headship addressed and resolved once and for all. The Union has also engaged the Commission and affected teachers in a face-to-face discussion to resolve the matter. The Commission has remained adamant that these teachers were only deployed and not promoted where the affected already had teachers grades that are commensurate to the Headteachers' grade-hence were deployed when vacancies arose, thus they don't deserve a pay rise.
16. For the sake of clarity, promotion of teachers in the Public Service is premised on Regulation 73 of the Code of Regulations for Teachers and the Career Progression Guidelines.

### Prayers

17. The Secretary General presented KNUT prayers as follows—

- (i) The Commission should promote teachers based on existing policy guidelines;
- (ii) Promotion of teachers from B5 to C1 should be automated. After three years, this should be Common Cadre for Primary school teachers;
- (iii) Advertisements for administrative positions should be done above board with the Commission indicating where vacancies are available;
- (iv) Teachers appointed or deployed to acting positions should be holding substantive qualifications for the same position or thereabout; and
- (v) Acting period for a teacher should be in accordance and in compliance with existing policy guidelines and other relevant laws.

### P/No. 62 of 2024 regarding Stagnation of Teachers' Progression P/No. 62 of 2023

1. Kenya National Union of Teachers remains the largest, most formidable and exceedingly influential professional association in Kenya. Unlike other trade movements, the Union draws its members from Comprehensive schools (PP 1 to Grade 9) - this means from Pre-Primary, Primary schools and Junior Schools; including Senior Schools (Secondary Schools).
2. It is true as stated by KUPPET that stagnation in the Teaching Service, whereby teachers stay in one Job Grade for several years has reached catastrophic levels.

3. Despite teachers having sat for promotion interviews, and accordingly shortlisted for promotions the TSC only promoted 36,000 teachers, while over 130,000 were not promoted. Over 15,000 teachers submitted their complaints to KNUT. Some of the cases involve teachers who have stagnated for over 10 years in the same Job Group, yet they have less than 5 years to retire.
4. For instance, in 2023 alone the 130,000 teachers successfully sat for promotion interviews and were shortlisted for various Job Grades, but for unexplained reasons, the Commission declined to effect the promotions. This was one of the many reasons that led KNUT to issue a Strike Notice on August 16th, 2024.
5. However, the Commission has since assured KNUT that teacher promotion is ongoing until all pending cases are fully addressed. In spite of the pledge by TSC that it would address all cases due for promotion, KNUT will not rest until teachers are moved to the job grades they deserve.
6. At this point in time, it is equally important to note that there are some teachers despite possessing the requisite qualifications, skills and the necessary experiences have not earned any promotion in over 15 years.
7. Privately, KNUT engaged education experts, economists, policy developers and specialists in Human Resource Management to establish what could be the bane for teachers stagnating in the same Job Grades for long periods. It was established that besides laxity by TSC to live to its commitment as provided for in Article 237(2) (d) of the Constitution of Kenya 2010; inadequate funding from the National Treasury to address salary/allowance increments and Career Progression Guidelines which were developed in 2018 by TSC are also an impediment to professional growth of teachers, and their promotions.
8. The Aims of Career Progression Guidelines for Teachers (2018) were to provide for—
  - (i) Minimum requirements for selection, appointment, recruitment and promotion. The Career Progression Guidelines have failed to address these areas.
  - (ii) A defined career structure that will attract, motivate and facilitate retention of competent teachers. The Career Progression Guidelines have failed to attract, motivate and facilitate retention of competent teachers. Teachers in the Public Service are only serving because they have no other options.
  - (iii) With the introduction of Competency Based Education system, Career Progression Guidelines have not provided clearly defined job description for teachers, and specifications with clear duties and responsibilities at all levels of learning.
  - (iv) The Career Progression Guidelines are not clear on teacher deployment and assignment of duties.

- (v) The Career Progression Guidelines are not crystal clear on alignment of work performance to career progression.
  - (vi) The Career Guidelines lack clear policy on the provision of minimum qualifications for career advancement and progression.
  - (vii) The Career Guidelines lack a clear mechanism for monitoring and evaluating career progression.
  - (viii) Worse still, Career Guidelines are supposed to offer professional development of teachers through Teacher Professional Development (TPD). For unexplained reasons, this is not happening.
9. Based on the facts, and experiences, KNUT made a stand that Career Progression Guidelines should either be reviewed comprehensively or TSC reverts to the Schemes of Service for Teachers Common Cadre Establishment Promotion, and the Competitive Promotion as outlined in Regulations 73, 74, 75 and 76 of Part VI of the Code of Regulations for Teachers (2015).

### Committee Concerns

Regarding the justification of automatic progressions for lower cadre, KNUT clarified that automatic promotion for the lower cadre is justified by the history of the teaching profession, which traditionally included a common cadre for promotions. In contrast, higher job groups require competitive promotion based on performance. KNUT emphasized that automatic promotion at the lowest job group is necessary to motivate teachers, many of whom leave the profession for other careers.

MIN./PPETC/2024/341:                      CONSIDERATION OF P/NO. 63 OF 2024  
REGARDING FORMER WORKERS OF BOHEMIAN  
FLOWERS LIMITED IN NAKURU COUNTY

### Meeting with Bohemian Flowers Limited

The Management of Bohemian Flowers Limited led by Ms. Loreen Kimuyu, the Head of Human Resource appeared before the Committee and submitted as follows—

1. Bohemian Flowers Limited, located in Naivasha Sub-county, specializes in the cultivation and export of fresh cut flowers. The company took over Oserian Farm on 5<sup>th</sup> December, 2021. At the time, the labour force was managed by four different companies: The Manpower Company (TMC), Oserian Flowers Ltd (OFL), Oserian Development Company Limited (ODCL), and The Two Lakes Packing Services (TLPs), all of which supplied labour to Oserian Development Company Limited. Each labour provider supervised its own workforce, leading to significant disparities in terms and conditions of employment. The labour force was bloated, and there was no structured approach to managing it effectively.
2. Bohemian Flowers Ltd had been operating for two years and nine months, employing a workforce of 3,100.

3. Former workers of Bohemian, the Petitioners, raised concerns that the company was already addressing through the Naivasha Labour Office. However, Bohemian had not signed a certificate of disagreement at the Labor Office.
4. After Bohemian's 2021 takeover, the workers were introduced to a new biometric clock-in system, which raised some concerns. The company responded by educating and training workers on the system through printed materials. Employees were informed that clocking in and out via the biometric system was necessary since the payroll was directly linked to it, with no human intervention. In November 2022, some employees missed their salaries due to failure to clock in and out correctly, but the company continued training and planned to reimburse the deducted amounts.
5. Before the missed payments could be reimbursed, some workers went on strike on 5<sup>th</sup> December, 2022, causing significant property damage, including to the biometric machines. As a result, some workers were sent home. The Kenya Planters Association Workers Union (KEPAWU), representing the workers, declared the strike illegal as no notice had been issued. Despite this, the company proceeded to pay the deducted wages and reiterated the importance of using the biometric system.
6. The strike occurred because the workers felt the company was being too strict. However, some employees had been clocking in, sneaking away, and returning only to clock out, prompting the company to enforce strict monitoring of clocking in and out times to ensure accurate payroll records.
7. Despite resistance from the workers, the company maintained its stance, believing that adequate training and support had been provided for the new system.
8. Following the strike, it was decided that all biometric machines on the farm would be centralized at the company's main entrance, where workers arrived via the company bus.
9. After assessing the damage, the company suspended several employees suspected of incitement and initiated a disciplinary process, issuing show-cause letters. However, during this process, management decided to declare some redundancies due to business and market challenges, as the company planned to uproot 20 acres of land.
10. Consequently, the disciplinary process was halted, and some employees involved in the process were included in the redundancy. A notice was issued, and the Labour Office was informed. Employees who completed the disciplinary process received verdicts—those found guilty were dismissed, while others continued their employment.
11. In selecting employees to join Bohemian, the company assessed departmental needs and declared redundant those with unresolved issues. Final dues were paid to all employees who were declared redundant.
12. In May 2023, some employees reported the dispute to the Labour Office, and the process was still ongoing at the time the Petition was presented.

13. In selecting the employees for redundancy, management was unable to apply first in last out principle as all the employees at that time had the same period of employment, therefore the departmental labour requirements and conduct of the employee was used as a selection guide.
14. Final dues were paid to all the employees who were declared redundant. In May 2023, the organisation received complaint letters by 70 employees from the labour office in Naivasha.

### Committee Concerns

15. **Concerning what happens when the biometric system fails**, Bohemian explained that there were over 30 synchronized machines, allowing employees to clock in at any of them. If one machine failed, employees would be redirected to a functioning one. In the event of a total failure, such as during a power outage, backup generators were on standby.
16. **On whether workers received adequate training on the new system**, the company stated that it had sensitized employees during the transition. This was not only an important policy tool but also empowered staff to ensure they received accurate pay for work done without human interference.
17. **Regarding sick leave within the biometric system**, the company clarified that employees were informed about the changes, which included individual printouts for monthly clock-ins. For cases of absenteeism, sick leave, official assignments, or emergencies, the relevant documentation, such as medical reports, would be uploaded into the system and passed to payroll to ensure accurate compensation.
18. **On how redundancies were determined**, the company explained that the process had already begun due to the restructuring of about 20 acres, and the relevant authorities had been notified. That redundancy was a better option for employees than dismissal over the strike, as it allowed them to receive benefits they otherwise would not have received.
19. **Regarding dues owed to employees**, the company stated that Oserian had already settled the dues for the period employees worked for them, based on the length of service. As a result, Bohemian inherited workers with no outstanding claims, and the employees voluntarily joined Bohemian in equivalent roles to those they held at Oserian.
20. **Regarding confirmation by the Kenya Planters Association Workers Union (KEPAWU) on the legality of the strike**, the company clarified that it did not possess the letter confirming the illegality of the strike.
21. **Concerning the remittance of employees' pension deductions for over a year and a half before termination**, the company explained that employees joined the pension scheme after a six-month probation period. Therefore, all staff in question were entitled to pensions for the ten months they worked after probation. The company requested additional time to present evidence of the remittances made to the pension scheme.

### Committee Resolution

After deliberations, the Committee resolved that Bohemian Flowers Limited furnishes information regarding remittances of employees' deductions to the relevant pension scheme.

MIN./PPETC/2024/342:

ADJOURNMENT AND DATE OF NEXT MEETING

The Chairperson adjourned the meeting at 3:30 p.m. The next meeting will be held on Thursday, 26<sup>th</sup> September 2024 at 11:00 a.m.

Sign:  .....

*for* (CHAIRPERSON).

Date..... 19-11-2024 .....



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

**MINUTES OF THE 64<sup>TH</sup> SITTING OF THE PUBLIC PETITIONS COMMITTEE HELD ON THURSDAY, NOVEMBER 28, 2024, IN COMMITTEE ROOM 20 ON 3<sup>RD</sup> FLOOR, BUNGE TOWER AT 11.00. A.M**

**PRESENT**

1. Hon. Janet Jepkemboi Sitienei, M.P. - Vice Chairperson
2. Hon. Patrick Makau King'ola, M.P.
3. Hon. Joshua Chepyegon Kandie, M.P
4. Hon. Maisori Marwa Kitayama, MP
5. Hon. Edith Vethi Nyenze, M.P
6. Hon. (Eng.) Bernard Muriuki Nebart, M.P.
7. Hon. Suzanne Ndunge Kiamba, M.P.

**APOLOGIES**

1. Hon. Nimrod Mbithuka Mbai, M.P. - Chairperson
2. Hon. Ernest Ogesi Kivai, M.P.
3. Hon. John Walter Owino, M.P.
4. Hon. Bidu Mohamed Tubi, M.P.
5. Hon. Caleb Mutiso Mule, M.P.
6. Hon. Peter Mbogho Shake, M.P.
7. Hon. John Bwire Okano, M.P.
8. Hon. Sloya Clement Logova, M.P.

**SECRETARIAT**

- |                         |                              |
|-------------------------|------------------------------|
| 1. Mr. Ahmad Kadhi      | Principal Clerk Assistant II |
| 2. Ms. Anne Shibuko     | Clerk Assistant I            |
| 3. Ms. Patricia Gichane | Legal Counsel II             |
| 4. Mr. Willis Obiero    | Clerk Assistant III          |
| 5. Ms. Nancy Akinyi     | Research Officer III         |
| 6. Mr. Calvin Karungo   | Media Relations Officer III  |
| 7. Mr. Peter Mutethia   | Audio Officer                |
| 8. Ms. Wahu Mwirikia    | Audio Officer Intern         |

**IN ATTENDANCE**

**TEACHERS SERVICE COMMISSION (TSC)**

- |                            |                          |
|----------------------------|--------------------------|
| 1. Ms. Nancy Macharia      | Chief Executive Officer  |
| 2. Mr. Cavin Anyuor        | Director, Legal Services |
| 3. Ms. Antonina Lentoijoni | Director, Staffing       |
| 4. Mr. Gabriel Mathenge    | Director, Operations     |

5. Mr. Edwin Musindi                      Legal Officer

**INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC)**

1. Mr. Marjan Hussein Marjan	CEO
2. Mr. Chrispine Owiye	Director, Legal Services
3. Ms. Linda Mworja	Communications Officer
4. Ms. Agatha Wahome	Ag. Director, Electoral Boundaries and Risk Manager
5. Ms. Irene Kyatu	Ag. Manager Electoral Boundaries
6. Mr. Tioko Nkieny	Manager, CEO's office

**MIN./PPETC/2024/406:      PRELIMINARIES**

The Chairperson called the meeting to order at 11:00 a.m. and proceedings began with prayers by Hon. Joshua Chepyegon Kandie, M.P.

**MIN./PPETC/2024/407:      ADOPTION OF AGENDA**

**AGENDA**

1. Prayer
2. Adoption of the Agenda
3. Confirmation of minutes of previous sittings
4. Matters Arising
5. Meeting with Teachers Service Commission (TSC) regarding—
  - *P/No. 46 of 2023 on Payment of retirement dues and pension for retired teacher;*
  - *P/No. 47 of 2023 on Deployment of Classroom Teachers as Head Teachers in Schools across the Country;*
  - *P/No. 54 of 2023 on Unlawful Deductions by TSC in Favor of Kenya Union of Special Needs Education Teachers (KUSNET);*
  - *P/No. 62 of 2023 on Stagnation of Teachers' Progression; and*
  - *P/No. 76 of 2023 on Discrimination by the Teachers Service Commission on Career Progression Guidelines for Special Needs Education Teachers in Kenya.*
6. Consideration of P/No. 40 of 2023 regarding Delimitation of Electoral Units
  - *Meeting with the IEBC*
7. Any Other Business
8. Adjournment

**MIN./PPETC/2024/408:                      CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS**

The agenda was deferred.

**MIN./PPETC/2024/409:                      MEETING WITH TEACHERS SERVICE COMMISSION (TSC)**

The CEO TSC, Ms. Nancy Macharia appeared before the Committee and submitted as follows:

**Background (Pension Regime in the teaching sector)**

1. Pursuant to **Article 237(2)(f)** of the Constitution, upon exit from service the Commission processes the pension dues of teachers in line with either Defined Benefits (DB) Pension Scheme or Defined Contributory (DC) Pension Scheme.
2. The DB Scheme is regulated by the Pensions Act and fully financed by the exchequer. The membership to the DB scheme includes:
  - a) All teachers who exited service either through retirement or death on or before 1<sup>st</sup> January 2021.
  - b) All teachers under the permanent and pensionable terms of service who were in service as of 1<sup>st</sup> January 2021 and had attained the age of 45 years and above.
3. On the other hand, the government introduced the DC Scheme vide the Public Service Superannuation Scheme Act, 2012 that established the Public Service Superannuation Scheme (PSSS). Membership to PSSS is as follows:
  - a) All teachers under the permanent and pensionable terms of service as of 1<sup>st</sup> January 2021 and had not attained the age of 45 years.
  - b) All teachers employed on or after 1st January 2021 under the permanent and pensionable terms of service.
  - c) Teachers above 45 years who opted to join PSSS as of 31<sup>st</sup> March 2021.

**Specific Responses to the Petition**

***TSC to establish the that have occasioned the delay payment of retirement benefits of the retired teachers in Mwatate the circumstances Constituency and the entire country.***

4. The Commission has no mandate to pay pensions claims. Under the provisions of the Pensions Act, payment of Pension to employees in the public service including teachers is the mandate of the Cabinet Secretary, National Treasury.
5. The Commission's role in this regard is to prepare the Pension claim and forward them to the Director of Pensions, National Treasury for processing and payment.
6. Notably, the Commission has prepared and submitted to the Director of Pensions the Pension Claims of all the twenty-one (21) Petitioners on various dates.

***TSC to provide data and statistics of all unpaid retired teachers in the entire country and indicate when they will pay all the retirement dues of the said teachers:***

7. In line with the Pension Act, the Commission has no mandate to pay Pension Claims. Payment of Pension Claims is a mandate of the National Treasury, specifically, the Director of Pensions.
8. The role of the Commission is to submit Pension Claims to the Director of Pensions. To this end, as at 1<sup>st</sup> July, 2024, the Commission has prepared and submitted to the

Director of Pensions a total of 35,254 Pension between 2019 and 2023 for 10,270 retired teachers.

9. There was a balance of 5016 cases at various stages of claim preparation. Notably, majority of the unprocessed claims are death gratuity claims pending for various reasons amongst them being:
  - a) Incomplete or lack of statutory documents to support the pension claims.
  - b) Succession related disputes between beneficiaries in cases of deceased teacher.
  - c) Injunctive orders from the courts of law stopping the pension process pending hearing and final determination of the related succession cases.
10. Notwithstanding these challenges, the Commission has put in place elaborate mechanisms to reach the affected teachers or their representatives to provide all the relevant documents to support their respective claims.
11. In this regard, the Commission relies on its field officers to trace the affected teachers/beneficiaries with a view to ensure that accurate and complete claim documents are submitted to hasten the processing of the pension claims for onward transmission to the National Treasury.
12. Additionally, the Commission has automated/digitalized processes in its pension division under the Human Resource Management Information System platform where teachers or beneficiaries can easily upload the required documents.
13. To further hasten the pension process, the Commission in liaison with the National Treasury, has a desk of representatives of the Director of Pensions in its Pension Division who vets the claims before they are forwarded to the National Treasury for payment. This has reduced the back and forth between the Commission and the office of the Director of Pensions.
14. The Commission has no mandate to paying pension benefits. Its role in pension processing is restricted to submitting the Pension Claims to Treasury, Director of Pensions for payment of the benefits.
15. Accordingly, the Commission has submitted the Pension Claims of all the 21 Petitioners to the Director of Pensions. To this end, it is our humble submission that the Commission has discharged its mandate as required by law.

### Committee Concerns

Regarding the difference between the teaching service and other public service pension schemes, TSC stated that most pensions in the public service were paid by the National Treasury hence the need for amendments to the Pensions Act.

## P/No. 47 of 2023 on Deployment of Classroom Teachers as Head Teachers in Schools across the Country

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### Background

1. In 2015/2016, the Commission in consultation with the Salaries and Remuneration Commission (SRC) conducted a Job Evaluation (JE) for the teaching service. Based on the findings of the JE Report, SRC rendered a formal advisory proposing a new grading and remuneration structure for teachers in the public service.
2. The main objective of the JE exercise was to determine the relative worth of the jobs/assignments within the teaching service with a view to link teacher remuneration and benefits to the respective responsibility assigned to them. The JE introduced among others:
  - a) The position of Senior Master in post primary institutions.
  - b) Responsibility-Based Grading System and remuneration structure replacing the Qualification-Based System.
  - c) Removal of Responsibility Allowance.
  - d) Substantive appointment to administrative positions in teaching service.
3. After the JE, the Commission signed the 2017-2021 Collective Bargaining Agreement (CBA) with the teacher unions including Kenya National Union of Teachers (KNUT). This transition necessitated the development and implementation of the teachers' **Career Progression Guidelines (CPG)** and **Policy on Appointment & Deployment of Institutional Administrators** in 2017 to align the New Grading Structure with the career progression of teachers.
4. The Policy of Appointment & Deployment of Institutional Administrators (2017) provides standards ensuring that institutional administrative positions are competitively filled.

### Conversion from the previous grading structure

5. Prior to the JE, teachers job groups were not in sync with their responsibilities. For example, a Head teacher would be at Job Group M" and a classroom teacher at "Job group G"
6. The JE addressed this disparity by categorising the teaching service into two (2) groups, administrators and non-administrators.
7. The administrators in primary schools comprised of **Head teachers, Deputy headteachers** and **Senior teachers**. Non-administrators comprised of classroom teachers in job-groups "H", "J", and "G".
8. Conversion of teachers at the primary school level were done based on the role of teacher at the time of their substantive job group.

## Specified response to the Petition

9. Conversions to D1 and C5 were done as follows:

- a) Head teachers in Job Groups **M** and **N** were converted to grade D1 as **Senior Head teacher**.
- b) Teachers in Job Group **N** were converted to **grade D1 as Senior Head teacher**.
- c) Deputy Head teachers in Job Group **N** were converted as **Senior Head teachers to grade D1**.
- d) Head teachers in Job Groups G, H, J, K and L converted to **grade C5**.
- e) Deputy Headteachers in Job Group **M** were converted to grade C5, as **Deputy Headteacher I**.
- f) Teachers in Job group **M** were converted to grade **C5 as Deputy Headteacher I**.

10. The list submitted by the Petitioners has 10 members. However, Petitioner number 10 cannot be verified by the records held by the Commission as the details provided do not appear on the list of teachers employed by the Commission.

11. In 2017, before JE and signing of the 2017-2021 CBA, the Commission advertised for promotions of teachers to Job Group **M**.

12. Consequently, all the nine (9) Petitioners, successfully applied for the promotion and accordingly were competitively promoted to Senior Graduate Teachers, at Job Group 'M' with effect from May 2017.

13. Thereafter, in July 2017 in accordance with the recommendations of the JE and the terms of 2017-2021 CBA, the Commission converted teachers into the new Job Grades.

14. To this end, all the nine (9) petitioners who were then in Job Group **M** and not holding administrative positions were converted into **Grade C5** like all other classroom teachers who were in Job **M** at the time.

15. Admittedly, at the time of implementation of the JE report, teachers were converted to different grades based on various factors including their job groups at the time and the position they held at the time.

16. Pursuant to the records held by the Commission, the nine (9) Petitioners were in Job Group **M** and were not holding any administrative position. Accordingly, they were correctly converted to grade C5. However, teachers in job group **M** and were holding administrative positions were converted to D1.

17. Even though these teachers were in the same Job Group before 1<sup>st</sup> July 2017 (job group **M**), they were not holding the same responsibilities and thus the conversion to different grades, in that those who were classroom teachers, Senior teachers, or deputy Head teachers were converted to C5 while Head teachers were converted to D1.

18. To this end, the averment by the Petitioners that they should or ought to be in grade D1 is misconceived and without merit as they were not holding any administrative position at the time of conversions.
19. The JE implemented adopted the Peterson structure that provides for more payment for administrative duties. Consequently, remuneration of teachers is done in accordance with the substantive teachers' Job Grade and the responsibilities linked to the grade. To this end, the Petitioners are remunerated as per the salary attached to their respective job grades.
20. It then follows that teachers at Job Grade D1 rightfully earn more than those in Job Grade C5 as they are in higher Job Grade with higher responsibilities.
21. Further, promotions to administrative positions after implementation of the recommendations of the JE are done competitively in accordance with the Policy on Appointment & Deployment of Institutional Administrators.
22. The promotions are based on several factors, key among them being availability of vacancies in authorized establishments and budgetary provision. Due to lack of vacancies, the Commission did not advertise for promotions in grade D1.
23. The Petitioners having been correctly converted to job grade C5, will progress to D1 when vacancies become available, and interviews done in accordance with the Code of Regulation for Teachers and relevant promotion policies.
24. Only two (2) petitioners wrote to the Commission on diverse dates requesting for promotion to Grade D1. The Commission duly responded to their requests. The Commission has not received any letter(s) from the other petitioners or Secretary General KNUT on behalf of the petitioners as alleged.

### Committee Concerns

- (i) **On the utilization of resources for non-responsive advertised positions**, the CEO clarified that the Commission would re-advertise these positions with more vigorous campaigns. This approach is necessary because the National Treasury does not permit the reallocation of funds earmarked for promotions in a particular cadre to other cadres.
- (ii) **Regarding concerns about teachers remaining in the same position despite participating in multiple interviews for headship roles**, the CEO explained that TSC applies specific criteria during the promotion process. These parameters include prior acting capacity, length of service, age, involvement in co-curricular activities, and academic performance. Each of these factors is assigned a score and considered during the evaluation for headship promotions.

**P/No. 54 of 2023 on Unlawful Deductions by TSC in Favor of Kenya Union of Special Needs Education Teachers (KUSNET)**

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**Background**

1. The Commission in embracing the spirit of the Constitution under Article 41 of the Constitution, has signed recognition agreements with three Teacher Unions namely including, Kenya Union of Post-Primary Education Teachers (KUPPET), Kenya National Union of Teachers (KNUT) and Kenya Union of Special Needs Education Teachers (KUSNET).
2. Pursuant to the Recognition Agreements each union in the teaching service has a distinct constituency. For example, KUPPET membership is derived from Post Primary school teachers; KNUT members are primary school teachers; and KUSNET Constituency comprises of teachers deployed to teach In Special Needs Education institutions and/or teachers duly registered as persons with disabilities under the Persons with Disabilities Act.
3. To foster the freedom of association and the right of every employee to join or leave a trade union at will as provided under Article 41(2) (c) of the Constitution and Section 4(1) of the Labour Relations Act, the Commission has developed and operationalized an online platform namely Teachers' Pay (T-Pay) to enable teachers to manage third-parties deductions in their pay slips.
4. The T-Pay system allows teachers to manage transactions in their pay slips by approving any third-party (such as unions, banks, insurances, associations, etc.) deductions that they wish to be effected on their pay slips. Similarly, a teacher who desires to exit a union is only required to log into T-Pay system and stop the deduction.

**Specific Responses to the Petition**

5. The Commission has over the years recognized the right of employees to join and participate in trade unionism. Further, the need for bipartisan approach to labour relations begins with the recognition of teacher unions pursuant to Section 54 of the Labour Relations Act, this cannot be understated.
6. In line with section 4(1) of the Labour Relations Act, teachers are allowed to voluntarily join teacher unions of their choice by approving deductions to the union through the Commission's T-Pay platform. Similarly, where a teacher opts to leave membership of the union, he/she stops the deductions on the same platform.
7. Accordingly, teachers join unions voluntarily by approving deduction of membership fees in their pay slips.
8. KUSNET was registered by the Register of Trade Unions as a trade union on 30th August 2011 and issued with a Certificate of Registration Number **TU/160**.
9. The union's leadership is as follows **James Torome, Secretary General, Amos Karanja, National Chairman** and **Monica Gathu**. Other details with respect to the union may be obtained from the Registrar of Trade Unions who is the Regulator.

10. Pursuant to **section 54** of the Labour Relations Act, the Commission signed a Recognition Agreement with KUSNET on **3<sup>rd</sup> March 2021** allowing the Commission to engage KUSNET in negotiation of teachers' terms of service.
11. To this end, KUSNET negotiated the terms of service for its members and signed a Collective Bargaining Agreement with the Commission dated **13<sup>th</sup> July 2021**.
12. Following the signing of the Collective Bargaining Agreement, KUSNET pursuant to section 49 of the Labour Relations Act requested the Minister for Labour and Social Protection to issue an order requiring the Commission to deduct Agency Fee from the wages of each unionisable teacher under the constituency of KUSNET who is not a member of the trade union.
13. Accordingly, the Minister issued an order vide **Legal Notice No. 10 of 2022** directing the Commission to deduct agency fee from unionisable teachers under the constituency of KUSNET who have not subscribed as members of the union.
14. To this end, the Commission deducts union dues from teachers who have duly registered as members of KUSNET and Agency Fees from members who are under the constituency of KUSNET and have not registered as members of KUSNET.
15. All teachers who are members of KUSNET or any other union recognized by the Commission joined the union(s) voluntarily by approving deduction of union dues fees in their pay slips. It is, therefore, not true that some KUSNET members joined the Union without consent, and they have been deducted union dues.
16. With regards to the Petitioners, fourteen (14) of them are deducted agency fee as they fall within the constituency of KUSNET while one (1) Petitioner, Ms. Stella Mageto is deducted membership fee as she is member of KUSNET.

### Committee Concerns

- (i) **Regarding how the Commission remitted the deductions**, the CEO clarified that the deductions on behalf of the unions including KUSNET or other third-party subscriptions were made by 25<sup>th</sup> of every month and the money was in IFMIS.
- (ii) **Regarding the autonomy of TSC in managing payroll of teachers**, the CEO indicated that the Commission had fought for the autonomy to run and manage the payroll of teachers. This has caused several administrative bottlenecks and the Commission had to conduct a retreat with several State Departments to actualize certain policies.

## Background

1. Pursuant to the provisions of **Article 237(2)(d)** of the Constitution, the Commission has the mandate to promote teachers under its employment.
2. In discharging this mandate to promote teachers, the Commission observes the values and principles of public service under Article 232 of the Constitution. To this end the Commission has endeavoured to apply the principle of fair competition and merit, integrity, transparency and accountability, equity, fairness and impartiality, inclusiveness, non-discrimination and gender equity in the selection and appointment process.
3. Further, the promotion of teachers in public service is premised on CORT, Career Progression Guidelines (CPG) for teachers and the Policy on Selection and Appointment of Institutional Administrators.
4. Specifically, **Regulation 73 of the CORT** provides for general guidelines in promotion of teachers including: **merit and ability as reflected in the teacher's work, performance and results; seniority and experience as set out in the scheme of service; existence of a vacancy; and academic and professional qualifications.**
5. On the other hand, the Career Progression Guidelines (CPG) and the policy on Selection and Appointment of Institutional Administrators outlines the skills and competencies necessary for advancement in the profession by providing for minimum requirements for selection, appointment and promotion of teachers at different grades.
6. To this end, all promotion vacancies are filled competitively with the objective for recognize or reward effort or align teachers for succession management/career progression and to motivate employees to perform better in their duties and responsibilities with the aim of improving quality teaching and learning.

## Specific Response to the Petition

7. Promotions in the teaching sector are done under two limbs as follows:

### Common Cadre Promotions:

8. Promotions under the Common cadre is considered based on the following categories:
  - a) *Primary school teachers*: Employed with a P1 qualification and are placed in grade B5. Upon completion of three years of satisfactory service, they are automatically promoted to grade C1 in the common cadre establishment.
  - b) *Secondary school teachers*: Employed with a Diploma qualification and placed in grade C1. Upon completion of three years of satisfactory service, they are

automatically promoted to grade C2 in the common cadre establishment. Additionally, for Secondary school teachers who are employed with a degree qualification, they are placed in grade C2. Upon completion of three years of satisfactory service, they are automatically promoted to grade C3 in the common cadre establishment.

9. Accordingly, the Commission has promoted a total of **168,389 teachers** on Common cadre promotions between Financial Years 2017/2018 and 2023/2024.

### **Competitive Promotions**

10. Promotions from the common cadre establishments are competitively filled with the objective to promote national values, fairness, non-discrimination, and equity. The promotions are premised on inter alia availability of funds and existence of vacancies in authorized establishments.
11. Promotion of institutional administrators is guided by the Policy on Appointment and Deployment of Institutional Administrators. The policy provides for clear career progression structures to ensure systematic progression, growth and professional development for all teachers. It outlines the experience, academic and professional requirements necessary for appointment and deployment of institutional administrators and further sets the process for career advancement and succession management in institutions.
12. A teacher must meet all the requirements set out in the Policy on Appointment and Deployment of Institutional Administrators to qualify for appointed as an administrator. Additionally, the teachers must show interest by applying when the Commission advertises for the said posts.
13. A summary of teachers promoted between Financial Years 2019/2020 and 2023/2024 on competitive basis were **73,902**.
14. Pursuant to the implementation of the 2017-2021 CBA and the Career Progression Guidelines, all teachers were promoted in 2017 and thereafter, automatically promoted after 3 years for common cadre promotions.
15. Accordingly, it is not true that teachers have stagnated for 15 years. While some teachers may have stayed in one job group more than three years, the delay in promotion is majorly caused by budget constraints to undertake competitive promotions.
16. Further, the Commission has severally engaged KUPPET on issue of promotions with the most resent engagement being from 9<sup>th</sup> to 12<sup>th</sup> April, 2024 at a workshop in Naivasha where the Commission extensively elaborated to the union the challenges causing delay in promotion of teachers.

### **Committee Concerns**

- (i) **Regarding communication with teachers regarding vacancies and requirement for promotions**, the CEO noted that the Job Evaluation (JE) was conducted in consultation with union representatives and associations, including the Kenya

Secondary Schools Heads Association (KESSHA) and the Kenya Primary Schools Headteachers Association (KEPSHA). This ensured that teachers were represented through their respective cohorts. Following the JE-based Collective Bargaining Agreement (CBA), the TSC issued a circular to every school and disseminated it via its website, newspapers, television, and field officers who represent the Commission at the zonal level.

- (ii) **Addressing concerns about whether the Schemes of Service constituted a "moving target" during promotions**, the CEO clarified that a standardized policy exists under the Career Progression Guidelines (CPG). Other criteria, such as performance in curriculum delivery and years of experience, are only applied in exceptional cases to determine promotion eligibility.
- (iii) **On the issue of funding required to prevent career stagnation among teachers**, the CEO emphasized the need for an annual budget dedicated to promotions. The last budget allocation for promotions was ten years ago, which has led to significant stagnation and demotivation among teachers. While TSC had proposed an annual budget of Kshs 2 billion, the current administration provided only Kshs1 billion. This is insufficient to meet the needs of the 400,000 teachers, some of whom have stagnated for over a decade. Moreover, with 46,000 additional teachers recently employed on permanent and pensionable terms, the proposed budget may need further revision to accommodate their eventual promotions.
- (iv) **Regarding the estimated number of advertised positions for the Financial Year 2024/2025**, the CEO stated that the most recent advertisement sought to fill 5,690 positions, mainly to support the new Competency-Based Curriculum (CBC). Among these were 2,911 deputy headteacher roles. However, the advert attracted only 2,566 applications, as many qualified teachers were reluctant to apply for promotions due to concerns over potential transfers.
- (v) **Addressing allegations of corruption in teacher recruitment**, the CEO reported that investigations conducted in collaboration with relevant stakeholders found no evidence of malpractice. Nonetheless, the Commission remains open to new evidence to improve the process. The recruitment portal was established to minimize human interference, ensuring only applicants who met the qualifications were considered. Out of approximately 150,000 qualified applicants, only 36,000 vacancies were available, with unqualified candidates automatically filtered out by the system.
- (vi) **On the frequency of TSC policy reviews**, the CEO mentioned that the last review of the Career Progression Guidelines (CPG) took place in 2018. The next review is scheduled for July 2025 to align with the upcoming CBA for 2025-2029.

## **Background**

1. Prior to the JE, teachers job groups were not in sync with their responsibilities. For example, a Head teacher would be **Job Group G** and a classroom teacher at **Job Group M**.
2. The JE addressed this disparity by categorising the teaching the teaching service into two (2) groups, Institutional administrators and non-administrators. The administrators in primary schools comprised of Head teachers, Deputy headteachers and Senior headteachers.
3. Conversion of teachers at the primary school level were done based on the role of the teacher at the time and their substantive job group.
4. Noting that special schools and units are categorised as either primary or secondary, SNE teachers were converted using the same formula and thus they acquired the grades associated with primary of secondary teachers whichever was applicable.
5. Pursuant to the conversion and in line with the new grading structures, SNE teachers retained similar title as teachers in regular schools in the payroll, for example, SNE teacher converted to C2 retained the name **Senior Teacher II** instead of **Primary Teacher II (SNE)**.
6. Admittedly, the Job titles in the Commission's payroll and those in the CPG 2018 are yet to be aligned with respect to SNE teachers.
7. This has been occasioned by the fact that the Government's payroll system which is managed by the State Department of Public Service has been undergoing re-configuration to facilitate migration to a new payroll system.
8. Despite the lack of change in the job title of SNE Teachers in the payroll, the Commission has ensured that the teachers are paid salaries that are commensurate to their designation. Accordingly, there has not been any discrimination on the salary structure of the SNE Teachers.
9. Noting the confusion created by the lack of change in the job title of SNE Teachers in the payroll, the Commission is working closely with the State Department of Public Service to align the grades for the Job Titles in the payroll to reflect those in the CPG.

## **General Committee Concerns**

- (i) **Regarding effective communication with teachers during recruitment and promotion processes**, the TSC clarified that every teacher is eligible for automatic promotion to the next grade after three years. However, due to limited vacancies and the need to ensure equity and fairness, not all eligible teachers can be promoted simultaneously, necessitating a competitive selection process. The

TSC emphasized that unsuccessful candidates are considered for subsequent opportunities and are issued regret letters to acknowledge their applications.

- (ii) **On whether a classroom teacher could be promoted to the highest grade without holding a headship or management position**, the TSC explained that while this was possible in the past, the current structure under the Job Evaluation (JE) framework assigns higher ranks to administrators. The JE framework was developed through consultations with multiple stakeholders, including teachers. Notably, institutional heads continue to fulfil their roles as classroom teachers.
- (iii) **Regarding the balance between teacher demand and supply**, the TSC CEO noted that while budget constraints remain a significant challenge, the Commission regularly engages the Ministry of Education through advisory proposals. For example, the Ministry paused the training of P1 teachers for two years to facilitate the transition from P1 certification to diploma-level qualifications. The CEO underscored the importance of aligning teacher training projections with periodic advisory updates.
- (iv) **On the gradual implementation of the delocalization policy**, the TSC clarified that the process ensures seamless replacements for transferred teachers to avoid disruptions to learning.

### Committee Resolutions

After deliberations, the Committee resolved to proceed with report writing for the petitions except P/No. 46 of 2023 on **Payment of Retirement Dues and Pension for Retired Teachers** which was pending engagement with the National Treasury and the Retirements Benefits Authority (RBA).

MIN./PPETC/2024/410:

CONSIDERATION OF P/NO. 40 OF 2023 REGARDING DELIMITATION OF ELECTORAL UNITS

### Meeting with the IEBC

The CEO IEBC, Mr. Marjan Hussein Marjan appeared before the Committee and submitted as follows—

### Introduction

1. The Independent Electoral and Boundaries Commission (IEBC) is a Constitutional Commission established under Article 88 of the Constitution.
2. Article 88 (4) outlines its mandate to conduct or supervise referenda and elections to any elective body or office established by the Constitution and any other election as prescribed by an Act of Parliament.
3. Specifically, Article 88(4)(c) of the Constitution provides that the IEBC is responsible for "the delimitation of constituencies and wards". Further, Article 82(1)(a), requires Parliament to enact legislation to provide for "the delimitation by the Independent Electoral and Boundaries Commission of electoral units for election of members of the National Assembly and County Assemblies."

4. Pursuant to the aforesaid requirement, Parliament enacted the Independent Electoral and Boundaries Commission Act, 2011 (the IEBC Act) effectively granting a lifeline to the provisions of Article 82(1)(a) as read together with the provisions of Articles 88 and 89.
5. In addition, under Sections 2, 4(c), 36 and the Fifth Schedule of the IEBC Act, CAP 7C, the IEBC was required to resolve all issues arising from the first review and therefore, complete the first review. Following the review, the Commission was required to publish its final report within a period of four (4) months of the date of appointment of its Chairperson and Members as provided under the IEBC Act.
6. By dint of Sections 2, 4(c), 36 and the Fifth Schedule of the IEBC Act, the IEBC resolved all issues, completed the first review of electoral boundaries and published the final report of the National Assembly Constituencies and County Assembly Order, 2012 dated 6<sup>th</sup> March, 2012 in the Kenya Gazette as Legal Notice No. 14 of 2012.

### **Response to the issues raised in the Petition**

The IEBC noted the concerns raised in the Petition and responded as follows—

#### **Complaints were raised after the last boundary delimitation exercise regarding the way 80 extra constituencies and 1450 county assembly wards were created.**

7. The Interim Independent Boundaries Review Commission (IBRC) was established pursuant to the Constitution of Kenya (Amendment) Act, No. 10 of 2008 as part of the four (4) main reform agendas towards electoral transformation. This was as a result of the aftermath of the disbandment of the Electoral Commission of Kenya (ECK), whose functions were subsequently spread between the IBRC and the Interim Independent Electoral Commission (IIEC).
8. The IIBRC Chairperson and eight Commissioners were duly appointed by the President and gazetted vide Gazette Notice No. 4796 of 12<sup>th</sup> May, 2009 and sworn into office on 18<sup>th</sup> May, 2010. The functions of the Commission were set out in section 41C of the said Constitution (Amendment) Act as being inter alia—
  - (a) To make recommendations to parliament on the delimitation of constituencies and local authority electoral units and the optimal number of constituencies on the basis of equality of votes taking into account:
    - i. Density of population, and in particular the need to ensure adequate representation of urban and sparsely populated rural areas;
    - ii. Population trends;
    - iii. Means of communication;
    - iv. Geographical features; and
    - v. Community of interest.
  - (b) To make recommendations to parliament on administrative boundaries, including the fixing, reviewing and variation of boundaries of districts and other units; and

- (c) And any other functions as may be prescribed by parliament.
9. This mandate was further modified by the new Constitution promulgated on 27<sup>th</sup> August, 2010 under paragraph 27 of the Sixth Schedule which charged the IIBRC with the mandate to determine the boundaries of constituencies and wards using the criteria mentioned in the Constitution.
  10. It was pursuant to this constitutional imperative that the IIBRC completed its work, determined eighty new constituencies in addition to the existing two hundred and ten and published the list in the print media on 17<sup>th</sup> November, 2010.
  11. Following this publication and determination of the disputes that ensued thereafter, the IEBC was required, pursuant to the provisions of paragraph 2 (1) (a) and (b) of the Fifth Schedule to the IEBC Act, to address the issues arising out of the first review by:
    - (a) Using as its primary reference material the report of the former Boundaries Commission (IIBRC) on the first review as adopted by the National Assembly; and
    - (b) Using as its secondary reference material, the report of the Parliamentary Committee on the report of the former Boundaries Commission on the first review.
  12. In carrying out the exercise, the IEBC sought to resolve issues arising from the first review as stated in paragraph 2(2) (a). (b) as follows:
    - (a) Re-distribution of such wards or administrative units in the affected constituencies as may be appropriate; and
    - (b) Subject to the Constitution, addressing issues of new constituencies falling outside the population quota as provided for by Article 89(6) of the Constitution.
  13. Pursuant to this, the IEBC conducted public participation to resolve all issues arising from the first review conducted by IBRC while sensitizing the publics on the proposed boundaries of constituencies and wards before the preparation of the final report.
  14. Any resultant disputes were handled through the appropriate dispute resolution fora, that is, the Courts. In strict adherence to the rule of law, the Commission implemented the decisions of the Courts.
  15. The next review of boundaries should have been undertaken and concluded not later than March 2024 but since the recruitment of Commissioners is pending no substantive constitutional functions can be discharged by the Commission.
  16. Articles 82(1) (a) and 89 confer upon the IEBC the mandate to review the names and boundaries of constituencies and the number, names and boundaries of wards. The criteria to consider in delimitation of electoral boundaries is espoused under Article 89.

17. The stipulated constitutional timelines for review of the names and boundaries of Constituencies is not less than eight (8) years and not more than twelve (12) years while the timelines for review of the number, names and boundaries of Wards is periodic.
18. The import of this, is that the eight-year period took effect in 2020 with the twelve-year outer limit terminating in March, 2024. The IEBC has not undertaken the delimitation of boundaries owing to vacancies in the membership of the IEBC.
19. It is imperative to point out that during the intervening period, the legislative framework on review of electoral boundaries morphed through various amendments to Acts of Parliament including but not limited to:
  - i. Section 36 of the IEBC Act, 2011;
  - ii. The Fifth Schedule to the IEBC Act (now spent) and
  - iii. Section 26 of the County Governments Act, 2012,
20. In the review of electoral boundaries, the IEBC has and continues to rely on the following legislative framework for purposes of compliance:
  - i. The Constitution of Kenya, 2010;
  - ii. The IEBC Act, 2011;
  - iii. The County Governments Act, 2012;
  - iv. The Urban Areas and Cities Act, 2011;
  - v. The Survey Act, 1961 (Rev 2020) and
  - vi. Statistics Act, 2006.
21. The term of the Commissioners lapsed on 17<sup>th</sup> January, 2023. Prior to that, IEBC had prepared a Boundaries Review Operation Plan (BROP) to provide a road map for the delimitation exercise. It used a phased approach as follows:

**Phase I: Pre-Delimitation-Preparatory:** Activities such as planning, development of documents, legal framework, capacity building, collection, and validation.

**Phase II: Delimitation:** Gazettement of intent to conduct delimitation, Conduct of stakeholder engagement and education, collection and analysis of memoranda, public hearing and gazette of descriptions of new electoral units and generation of new electoral maps.

**Phase III: Post-Delimitation:** Post-delimitation report, petitions and implementation of high court decisions.

22. The IEBC has not completed phase one while phases two and three are yet to commence. The pending work in phase one encompasses geo-data validation and capacity enhancement of all necessary staff.
23. It is worth noting that while vacancies exist within the membership of the Commission, the IEBC remains legally and constitutionally obligated to undertake the delimitation of boundaries. It is not clear whether the Constitution permits the timelines under Article 89 to be extended.

24. The IEBC invoked Section 29 of the IEBC Act and sought the guidance of the Attorney General whose office advised that the IEBC Secretariat cannot conduct functions under Article 88 (4) of the Constitution. The Attorney General also laid emphasis that the failure to conduct boundary delimitation would likely result in legal challenges as well as compromising the right to fair representation, political stability, social cohesion and electoral integrity.
25. In this regard, the IEBC in July, 2024, filed a Reference requesting an Advisory Opinion from the Supreme Court on how to proceed taking into account the lapsed constitutional timelines and absence of Commissioners necessary for the electoral process. The matter is pending before the Supreme Court.
26. As a matter of information and owing to the lacunae in the membership of Commissioners, the Commission has sought an advisory from the Supreme Court with regard to the lapsed timelines for delimitation of boundaries in order to get guidance on the next steps given the current legal crisis.
27. The IEBC craves for the Supreme Court's advisory opinion of the following issues—
  - i. Whether the applicant can undertake the process of delimitation of electoral boundaries and other electoral processes in the absence of Commissioners or the requisite quorum of Commissioners;
  - ii. Whether the applicant can conduct a review of the names and boundaries of constituencies and wards when the timelines envisage under Articles 89(2) and (3) as read together with Section 26 of the of the County Governments Act have lapsed; and
  - iii. Whether the constitutional timelines envisaged under the provisions of Articles 89(2) and 89(3) as read together with Section 26 of the of the County Governments Act can be extended, if so, by whom and under what circumstances.

***Parliament has not developed a legal framework for the creation and determination of sub-locations that takes into account the obligation of the IEBC to progressively achieve population parity***

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28. The IEBC is guided by an elaborate legal framework streaming from the Constitution and operationalized by the IEBC Act and the Procedures for Delimitation of Electoral Units enacted by Parliament on 15<sup>th</sup> July, 2024.
29. Notably, during delimitation of electoral boundaries, the IEBC utilizes data resident in other state agencies. In addition, the respective agencies would be required to submit the necessary data to the IEBC to facilitate its process of delimitation of electoral boundaries.
30. Specifically, Kenya National Bureau of Statistics (KNBS) will submit population data which is in Geodata format.
31. As a matter of information, sub-locations are administration structures of the National Government. The sub-location population data is drawn from collating

enumerated population of contiguous enumeration blocks. It is neither a basic unit of population census nor elections.

***The National Assembly to engage the relevant authorities and stakeholders to ensure the review of electoral units is carried out in a constitutionally compliant manner.***

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32. In pursuit of its electoral legal reform agenda, the IEBC ensures robust engagements and public participation with relevant stakeholders. Parliament enacted the IEBC (Amendment) Act, 2024 on 15<sup>th</sup> July, 2024, that provides the mechanisms for the IEBC to engage stakeholders on the delimitation of boundaries under the Fifth Schedule.

33. As such, the process of boundary delimitation would be able to be sufficiently undertaken under the current legal framework once the Commissioners are appointed. This is of course dependent on the advisory opinion that the supreme Court will render on the constitutional timelines for delimitation of electoral units.

## **Conclusion**

34. The Commission notes with appreciation the intention of the Petition to ensure the delimitation of boundaries as provided under Article 89 is undertaken. However, for the reasons discussed above, the Commission submits that it cannot currently undertake delimitation and awaits further direction on the matter.

35. The Commission recommends that the process of recruitment of Commissioners be fast tracked to enable the Commission to discharge its constitutional mandate which includes delimitation of constituency and ward boundaries.

## **Committee Concerns**

### **(i) Possible outcomes from the Supreme Court's determination**

The Commission outlined potential outcomes from the Supreme Court's decision. If the Court allows the Secretariat to proceed with delimitation, the process can continue. However, a critical question remains about who has the authority to extend the guidelines. If the Commission's constitution is expedited, they can fulfill their mandate accordingly. The Supreme Court's involvement became necessary due to lapsed timelines. A bench has since been constituted to address the issues presented by the IEBC Secretariat.

### **(ii) Supreme Court's role vs. the Commission's independence**

The CEO explained that the Supreme Court's role is to interpret the Constitution. The Court will likely consider the elapsed timelines, the rationale behind these timelines, and the circumstances following the departure of the Commissioners a year prior. It may examine which institution is responsible for ensuring a quorum within the Commission and whether external factors contributed to the delays. A purposive interpretation of the timeline provisions is needed. For instance, as the 2027 General Election approaches, a second review of boundaries is essential to avoid conducting

the election without updated delimitations. The Supreme Court may extend timelines, as delimitation must not exceed one year before the 2027 elections. Parliament may also need to amend the timelines legislatively.

**(iii) Fate of wards and constituencies without representatives**

The Commission clarified that byelection matters require intervention from the Commission itself. The Secretariat handles administrative tasks and implements the Commission's policy resolutions.

**(iv) Establishment of additional polling stations**

Citing Article 88, the Secretariat emphasized that establishing additional polling stations requires voter registration, which necessitates the presence of the Commission.

**(v) Livestreaming of presidential results**

Regarding efforts to bar the livestreaming of presidential results, the Commission explained that the proposal stemmed from the Election Amendment Bill 2024, which underwent public participation in the Senate. Section 39G of the Elections Act, enacted in 2017 during the period between the nullification of the 2017 presidential election and the fresh election on October 26, 2017, allowed livestreaming for public information only, excluding such results from official declarations.

After Parliament approved the Bill, the President declined to assent, and the Bill became law. However, the Katiba Institute and other civic organizations challenged this provision in court, which declared it unconstitutional. During public participation, it was suggested that the Elections Act be amended to reflect the court's ruling. As it stands, the transmission of election results in the 2027 General Election will proceed.

**Committee Resolutions**

After deliberations, the Committee resolved to proceed to write the report on the Petition with a view of responding to the Petitioner's prayers.

**MIN./PPETC/2024/411:**

**ADJOURNMENT AND DATE OF NEXT MEETING**

The Chairperson adjourned the meeting at 01:30 p.m. The next meeting will be held on Tuesday 3<sup>rd</sup> December, 2024.

Sign:  .....

*Jen* (CHAIRPERSON)

Date: *28/11/2024* .....



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

**MINUTES OF THE 7<sup>TH</sup> SITTING OF THE PUBLIC PETITIONS COMMITTEE HELD ON FRIDAY, APRIL 11, 2025, IN ACACIA A CONFERENCE ROOM, SAWELA LODGE, NAIVASHA AT 12.00 PM**

**PRESENT**

1. Hon. Ernest Ogesi Kivai, M.P.	Chairperson
2. Hon. Joshua Chepyegon Kandie, M.P.	Member
3. Hon. Maisori Marwa Kitayama, M.P.	Member
4. Hon. Edith Vethi Nyenze, M.P.	Member
5. Hon. Bidu Mohamed Tubi, M.P.	Member
6. Hon. (Eng.) Bernard Nebart Muriuki, M.P.	Member
7. Hon. Peter Irungu Kihungi, M.P.	Member

**APOLOGIES**

1. Hon. Janet Jepkemboi Sitienei, CBS, M.P.	Vice-Chairperson
2. Hon. Patrick Makau King'ola, M.P.	Member
3. Hon. Nimrod Mbithuka Mbai, M.P.	Member
4. Hon. Beatrice Kadeveresia Elachi, CBS, M.P.	Member
5. Hon. Peter Mbogho Shake, M.P.	Member
6. Hon. Suzanne Ndunge Kiamba, M.P.	Member
7. Hon. John Bwire Okano, M.P.	Member
8. Hon. Sloya Clement Logova, M.P.	Member

**SECRETARIAT**

1. Mr. Ahmed Kadhi	Principal Clerk Assistant II
2. Ms. Roselyne Ndegi	Senior Serjeant-At-Arms
3. Ms. Patricia Gichane	Legal Counsel II
4. Mr. Willis Obiero	Clerk Assistant III
5. Mr. Calvin Karungo	Media Relations Officer
6. Ms. Nancy Akinyi	Research Officer III
7. Mr. Peter Mutethia	Audio Officer

**MIN./PPETC/2025/033: PRELIMINARIES**

The Chairperson called the meeting to order at 12:00 pm. and proceedings began with prayers by Hon. Peter Irungu Kihungi, M.P.

**MIN./PPETC/2025/034: ADOPTION OF AGENDA**  
**AGENDA**

1. Prayer
2. Adoption of the Agenda
3. Confirmation of minutes of previous sittings
4. Matters Arising
5. Consideration of Public Petition No. 54 of 2023 regarding Unlawful Deductions by Teachers Service Commission (TSC) In Favour of Kenya Union of Special Needs Education Teachers (KUSNET)
6. Consideration of Public Petition No. 62 of 2023 regarding Stagnation of Teachers Progression in Public Service and
7. Consideration of Public Petition No. 15 of 2023 regarding the Declaration of Mukutani Forest as a Public Forest by the Hon. Florence Jematia Serгон, M.P.
8. Any Other Business
9. Adjournment

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

**MIN./PPETC/2025/035: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS**

The Agenda was deferred.

**MIN./PPETC/2025/036: CONSIDERATION OF PUBLIC PETITION NO. 54 OF 2023 REGARDING UNLAWFUL DEDUCTIONS BY TEACHERS SERVICE COMMISSION (TSC) IN FAVOUR OF KENYA UNION OF SPECIAL NEEDS EDUCATION TEACHERS (KUSNET)**

The Committee considered the draft report and made the following observations—

- (i) Each Recognition Agreement in the teaching service fell under a distinct constituency for instance, KUPPET Membership was derived from Post Primary Education Primary Teachers, KNUT from primary school teachers and KUSNET comprised of teachers deployed to teach in special needs education institutions or teachers duly registered as persons with disabilities under Persons with Disabilities Act. Hence, the existence of a Collective Bargaining Agreement (CBA) between the Commission and KUSNET, automatically placed Special Needs Teachers under KUSNET's jurisdiction.
- (ii) Teachers under the constituency of the Kenya Union of Special Needs Education Teachers (KUSNET) had union dues and agency fees deducted by the Teachers Service Commission arising from a Collective Agreement signed between KUSNET and the Commission and pursuant to the provisions of Section 49 of the Labour Relations Act and the Ministerial Order issued under Legal Notice No. 10 of 2022 requiring the Commission to deduct the said fees from the wages of each unionisable teacher under KUSNET, who was not registered as a Member of the Trade Union (KUSNET).

- (iii) All teachers who are members of KUSNET or any other union recognized by the Commission, joined the union(s) voluntarily by approving deduction of union dues fees in their pay slips through the T-Pay Platform and were not coerced to do so.
- (iv) The Commission had developed and operationalized an online platform called Teachers' Pay (T-Pay) to enable teachers manage Third Party Deductions in their pay slips including and also allows them to stop remittances or opt in or out of a union, among others. A teacher is only required to log into the system and effect the necessary changes. However, it is noted that the Petitioners' grievances suggest a possible lack of awareness or functionality of this system.
- (v) Fourteen (14) of the petitioners were deducted agency fees as they fell within the constituency of KUSNET but did not register as Members of KUSNET while one (1) Petitioner was deducted membership fee as she is registered as a Member of KUSNET.

### Committee Resolution

After deliberations, the Committee resolved to adopt the report and respond to the Petition as follows—

- (i) On the prayer that the Committee compels the TSC to stop the unlawful deductions in favour of KUSNET especially for teachers who never signed up for membership of KUSNET, the Committee rejects the prayer on the premise that—
  - (a) The provisions of section 54 of the Labour Relations Act which culminated into signing of a Collective Bargaining Agreement in line with section 49 of the Labour Relations Act where KUSNET requested the Cabinet Secretary for Labour and Social Protection to issue an order requiring the Commission to deduct agency fee from each unionisable teacher under KUSNET who has not registered as a member of the union;
  - (b) The Commission deducts union dues from teachers who have duly registered as members of KUSNET and Agency Fees from teachers who are under the constituency of KUSNET and have not registered as members of the union; and
  - (c) Teachers Service Commission in compliance with Section 49 of the Labour Relations Act has been empowered and mandated to effect these deductions.
- (ii) On the prayer that the Committee compels the Teachers Service Commission to refund the money to the affected teachers, the Committee rejects the prayer on the premise that agency fee deductions were lawfully done pursuant to the provisions of Section 49 of the Labour Relations Act hence the teachers are

not entitled to any refund as they are beneficiaries of the Collective Bargaining Agreement negotiated by KUSNET.

- (iii) On the prayer that the Committee compels the TSC to allow teachers to join the union of their choice, the Committee rejects the prayer on the premise that TSC has not compelled the teachers to join the respective unions.

MIN./PPETC/2025/037:                      CONSIDERATION OF PUBLIC PETITION NO. 62 OF 2023  
REGARDING STAGNATION OF TEACHERS PROGRESSION  
IN PUBLIC SERVICE

The Committee considered the draft report and made the following observations—

- (i) Promotions in the teaching sector are done in two Establishments namely, the Common Cadre, where teachers in both Primary and Secondary Schools were promoted automatically after serving in one grade for three (3) years and competitive promotions where vacancies were filled competitively subject to availability of vacancies and funds.
- (ii) The TSC had promoted a total of 168,389 teachers on the Common Cadre Establishment between FY2012/2018 and 2023/2024 while 73,902 teachers were promoted on the competitive basis in the FY 2019/2020.
- (iii) All teachers were promoted in 2017 and thereafter, automatically promoted after 3 years for common cadre promotions in line with the provisions of the 2017-2021 CBA and Career Progression Guidelines of 2018.
- (iv) There was no annual budget dedicated for teacher promotions by the National Treasury occasioning stagnation of teachers in one cadre for a long time as the last allocation was done ten (10) years ago.
- (v) Before the last allocation ten years ago, TSC had proposed for an annual budget of 2 Billion to promote about 400,000 teachers and only 1 Billion was disbursed which was insufficient.
- (vi) There was inadequate budget towards promotion of teachers hence an impediment in the promotion of teachers leading to stagnation yet TSC relies on the budgetary provisions appropriated by the National Assembly for purposes of promotion of teachers.

Committee Resolutions

After deliberations, the Committee resolved to adopt the report and respond to the Petition as follows—

- (i) On the prayer that the Committee engages the TSC with a view to address the crisis of teachers' stagnation and career progression in the public service, the

Committee recommends that the National Assembly considers appropriating funds in the Financial Year 2025/2026 for promotion of teachers; and

- (ii) The Committee also recommends that the TSC ensures sensitization of teachers on the career progression guidelines and the applicable appraisal tools.

MIN./PPETC/2025/038:

CONSIDERATION OF PUBLIC PETITION NO. 15 OF 2023  
REGARDING THE DECLARATION OF MUKUTANI FOREST  
AS A PUBLIC FOREST BY THE HON. FLORENCE  
JEMATIA SERGON, M.P.

The Committee considered the draft report and made the following observations—

- (i) The process leading to the gazettelement of Mukutani Forest as a public forest lacked sufficient consultation with key stakeholders, including local communities and the County Government of Baringo. This failure to engage the affected communities led to significant discontent, especially because the land in question was considered Community Land as specified in Article 63 of the Constitution of Kenya.
- (ii) The gazettelement of Mukutani Forest posed an existential threat to the communities living in the area, which was exacerbated by the eviction of approximately 20,000 people, many of whom had previously been issued with title deeds. This situation may intensify conflicts between the Tugen, Pokot, and Ilchamus communities, which had already been sensitive due to historic cattle rustling and insecurity in the region.
- (iii) The Gazettelement of Mukutani Forest was inconsistent with the provisions of both the Forest Conservation and Management Act 2016 and the Constitution of Kenya. The Legal Notice gazetting the forest was issued without fulfilling the requirement of public participation and consultation with the National Land Commission, as mandated by law.
- (iv) While the gazettelement aimed at forest conservation and the protection of the Mukutani River catchment area, the forest degradation was primarily due to mismanagement and lack of clear boundaries. However, the community's role in conservation, as reflected in the creation of conservancy and tree-planting efforts, highlighted their commitment to sustainable environmental management.
- (v) There are potential benefits of declaring Mukutani Forest as a public forest, such as promoting tourism, ecotourism and enhancing community livelihoods through wildlife corridors and resource management. However, these benefits were overshadowed by the negative social impact of displacement and lack of proper community involvement.
- (vi) The previous process lacked transparency and fairness, and the petitioners were right in requesting a new approach. There is need for a fresh, inclusive process that involves all relevant stakeholders, particularly the affected communities, to review the decision regarding Mukutani Forest.

- (vii) The history of land adjudication and the issuance of Title Deeds during President Moi's regime indicates that the affected communities have recognized rights to the land in question. The subsequent gazettelement actions have created ambiguity and have not respected the historical entitlements of these communities.
- (viii) The Indigenous Ilchamus community's traditional natural resource management practices have historically contributed to sustainable resource use. Disrupting these systems through the gazettelement has resulted in adverse impacts, including increased insecurity and displacement.
- (ix) The Gazettelement of Mukutani Forest has led to the displacement of approximately 20,000 people who are to be resettled and continuous attempts by the community to revoke the gazettelement have not yielded results, indicating a failure of government responsiveness to community grievances.
- (x) Objections raised by local Members of Parliament and the County Government and the calls for revocation of the gazettelement reflect widespread community dissent and division on the matter.
- (xi) The National Lands Commission's lack of records concerning the gazettelement process emphasizes the need for transparency and accountability in land management practices.

### Committee Resolutions

After deliberations, the Committee resolved to adopt the report with the following response to the petition—

- (i) On the prayer that the Committee finds that the process leading to the declaration of Mukutani Forest as a public forest was done in brazen and egregious contravention of the Constitution of Kenya and the Forest Conservation and Management Act, 2016, the Committee finds that the process that led to the gazettelement of Mukutani Forest was flawed as it ignored legal requirements, notably comprehensive public engagement and safeguarding of community rights. The Committee established that there was insufficient public participation and lack of consultation with the National Land Commission and all affected communities, which directly contravened the provisions of the Constitution and the Forest Conservation and Management Act.
- (ii) On the prayer that the Committee recalls the decision of the then Cabinet Secretary of Environment and Natural Resources contained in the Legal Notice No. 265 of dated 27<sup>th</sup> October 2017, interrogate the same and order that fresh exercise towards the declaration of the alleged forest named Mukutani Forest be undertaken by the Cabinet Secretary, the Board of Kenya Forest Service, the National Land Commission and all the relevant stakeholders, the Committee notes that pursuant to the provisions of section 34 of the Forest Conservation and Management Act, 2016, the revocation of the Legal Notice No. 265 of 27<sup>th</sup> October 2017 on the Gazettelement of Mukutani Forest can only be done through a petition to the National Assembly or the Senate, for the variation of

boundaries of a public forest or the revocation of the registration of a public forest or a portion of a public forest. Such a petition requires that the Cabinet Secretary in charge of the Ministry of Environment and Forestry to submit a recommendation on whether the petition should be approved.

MIN./PPETC/2025/039:

ADJOURNMENT AND DATE OF NEXT MEETING

The Chairperson adjourned the meeting at 2:00 p.m. The date of the next meeting will be Friday, 11<sup>th</sup> April 2025.

Sign: .....  .....

(CHAIRPERSON)

Date..... 11/04/2025 .....