

**SURVIVING STATE CORPORATISM IN KENYA: THE CASE STUDY
OF THE KENYA NATIONAL UNION OF TEACHERS (KNUT), 1982-
2013**

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DECLARATION

THIS IS MY ORIGINAL WORK AND TO THE BEST OF MY KNOWLEDGE, HAS NOT BEEN PRESENTED FOR A DEGREE IN ANY OTHER UNIVERSITY

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DEDICATION

I dedicate this work to my late grandparents, Mzee Paul Waswa Wandonio and Mrs. Sabina Nangila Waswa.

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LIST OF ABBREVIATIONS

ADC	Annual Delegates Conference
BEC	Branch Executive Committee
CBA	Collective Bargaining Agreements
CDC	Cameroon Development Corporation
CIDA	Canadian International Development Agency
COTU	Central Organization of Trade Unions
CPP	Convention People's Party
CTF	Canadian Teachers Federation
DANIDA	Danish International Development Agency
DEB	District Education Board
DLF	Danish Teachers Organization
EI	Education International
FNF	Friedrich Neumann Foundation
FPE	Free Primary Education
GEMA	Gikuyu Embu and Meru Association
ICFTU	International Confederation of Free Trade Unions
IFFTU	International Federation of Free Teachers' Union
IMF	International Monetary Fund
KACE	Kenya Advanced Certificate of Education

KADU	Kenya African Democratic Union
KANU	Kenya Africa National Union
KAWC	Kenya African Workers Congress
KFA	Kenya Farmers Association
KFL	Kenya Federation of Labour
KFPTU	Kenya Federation of Progressive Trade Unions
KGGCU	Kenya Grain Growers Co-operative Union
KHRC	Kenya Human Rights Commission
KNEC	Kenya National Examination Council
KNUT	Kenya National Union of Teachers
KTDA	Kenya Tea Development Authority
KUCFAW	Kenya Union of Commercial, Food and Allied Workers
KUPPET	Kenya Union of Post Primary Education Teachers
LSK	Law Society of Kenya
MVOA	Matatu Vehicle Owners Association
NARC	National Rainbow Coalition
NCCCK	National Council of Churches of Kenya
NEC	National Executive Council
NGOs	Non-Governmental Organizations
NHIF	National Health Insurance Fund

NORAD	Norwegian Agency for International Development
NSSF	National Social Security Fund
NUSO	Nairobi University Students Organization
ODM	Orange Democratic Movement
PSC	Public Service Commission
SAPs	Structural Adjustment Programmes
TAC	Teacher Advisory Council
TSC	Teachers Service Commission
TSRC	Teachers Service Remuneration Committee
TUC	Trade Union Congress
UASU	Universities Academic Staff Union
UKCS	Union of Kenya Civil Servants
WCOTP	World Confederation of the Teaching Profession

ABSTRACT

The study examines the survival of the Kenya National Union of Teachers (KNUT) from state co-optation between 1982 and 2013. The study was based on three objectives, which were: to investigate the nature of state corporatism in Kenya during the Moi regime and how it was employed against trade unions and other civil society organizations; to explain KNUT's strategies of surmounting state co-optation; and to examine state corporatism during the Kibaki era. Both secondary and primary data were instrumental to this study. The secondary sources analyzed included books, journal articles, theses and M.A. projects. Primary data sources included newspapers, magazines, letters, minutes of various KNUT meetings, KNUT strategic plans, constitutions, speeches, and oral interviews. Two methods of sampling techniques were used; purposive and snowballing sampling techniques. The data was collected and examined by a means of qualitative enquiry. The study was approached through the lens of the State Corporatism theory.

The study found out that post-colonial regimes in Kenya have undermined the efficiency of trade unions and other civil society organizations through the enactment of punitive legislations, the creation of splinter organizations to weaken their bargaining powers, the employment of state propaganda, the removal of organizations' vibrant leaders, and the unleashing of state violence on demonstrators. The study argues that despite the above state corporatist measures, KNUT managed to overcome. KNUT's survival was intertwined with the four variables, that is, good union organization based on constitutionalism and democracy; the numerical strength that determined the union's militancy; the union's financial muscle that dictated its independence from any external forces; and the strong and able leadership which not only prioritized the cause of its members but was also determined to take on the state on pertinent issues within the education sector. As part of a growing body of research on state/labour relation in Kenya, this project will therefore contribute to future research on similar topics apart from highlighting the factors that shape a trade union into a strong entity that is independent from state control.

CHAPTER ONE

1.1 Introduction

The trade union movements in Kenya began during the colonial period in response to the poor working conditions of Africans and Indian workers. Also important is that trade unions remained operational in the post-colonial period albeit with multitude of challenges. The beginning of the Kenya National Union of Teachers (KNUT) can be traced to the election of the Rift Valley, Legco Representative, Daniel Moi in 1955. Moi later moved a freelance motion in the Legislative Council, with the intention of pushing the government to allow teachers to form one national body. The government gave in to and through the Minister for Education Mr. W. F. Coutts convened a meeting in December 1957 at Pumwani D.E.B. School. This culminated into the formation KNUT.¹

At the same time, an interim Executive Committee was set up with Ignatius Mkok as president and Stephen J. Kioni as the Secretary General. It was until 10th December 1958 when the first Annual Conference was held. Elections were also held where Samuel Ayany was elected the president and Stephen J. Kioni the Secretary General. KNUT was officially registered as a trade union on 14th May 1959. In 1965, the KNUT constitution was revised to allow it affiliate with the Central Organization of Trade Union (COTU). However, beginning from 1967 the law prohibited all unions from international affiliations except KNUT which was allowed to affiliate with World Confederation of Teaching Profession (WCOTP) as a professional body. The year 1969 was a turning point in the labour movement in Kenya. The government ordered the Kenya Civil Servants Union (KCSU) and the Kenya National Union of Teachers (KNUT) to disaffiliate from COTU.² The government categorized the two unions as offering essential services, hence they were to be governed by the 'Essential Services Act' of the laws of Kenya. At the same time legislation was enacted that compelled all trade unions to affiliate with COTU. After that Cotu was empowered to guide unions on matters related to industrial action and picketing.

¹ Mbothu Kamau, *Francis M. Ng'ang'a: Battles and Triumphs, A Portrait of a Modern Trade Unionist*, Nairobi, Transafrica Press Ltd, 2009, p.102.

² Charles Hornsby, *Kenya: A History of Kenya since Independence*, I. B. Tauris Publishers, 2013, p.192.

1.2 Background to the Study

State attempts to co-opt civil society organizations and trade unions began in 1963, when Tom Mboya was appointed Labour Minister. He warned union officials that the rights of trade union movement would only be guaranteed if they acted responsibly. The government envisioned a scenario whereby trade unions engaged only in social and economic activities and not in things considered political or inhibitors of economic development. Thus, in 1965 the government proscribed the Kenya Federation of Labour (KFL) and the Kenya African Workers Congress (KAWC) due to wrangles between them and their involvement in the politics of the time.³ Subsequently, the government sponsored the formation of an umbrella union, the Central Organization of Trade Unions (COTU). Furthermore, the government granted extensive powers of control and regulation to the Minister for Labour and the General Secretary of COTU. Therefore, through a process of legislative restrictions, co-optation, and suppression, the labour movement in Kenya became docile and only subscribed to the interests of the regime, mainly economic development.⁴

The situation became worse during the Moi regime. Daniel arap Moi used several strategies including legal and extra-legal, purposely to muzzle and control these organization. The onslaught by Moi and KANU was such that by 1988 almost all civil society organizations and other social movements had been co-opted into the ruling party. Such organizations as The Central Organization of Trade Unions (COTU) and *Maendeleo Ya Wanawake* were duly subdued and got married into KANU. Other civil society movements such as Students Organization of Nairobi University (SONU) and the Civil Servants Union (CSU) were deregistered in 1980's and their call for re-registration did not reach the Registrar of Societies. COTU was docile such that its leadership under Joseph Mugalla spoke the language of KANU and had little intent to call for wage improvement. On its part, KNUT appears to have resisted this co-optation by the government. It staged several strikes demanding for better wages and improved working conditions, a factor which made the

³ Margaret K. Chemengich, "The Prospects of Civil Society Driven Change in Kenya", in Alione Sall and Peter Wanyande, et al, (eds), *Discourses on Civil Society in Kenya*, Nairobi, African Research and Resource Forum (ARRF), 2009, p.24

⁴Stephen H. Goodman, "Trade unions and political parties: The case of East Africa", *Economic Development and Cultural Change*, vol.17, No.3, April 1969, p 342.

government have jitters. How and why KNUT succeeded in remaining independent and forceful, and managed to represent its members has not been explained. This study was a response to the outstanding case of the Kenya National Union of Teachers which survived state co-optation at a time when various movements and civil society organizations were muzzled.

1.3 Statement of the Research Problem

In various discourses about state corporatism in Kenya, the Kenya National Union of Teachers (KNUT) has received little attention let alone systematic scholarly analysis. The union which is known for its militancy as depicted in the frequent industrial actions, managed to navigate various forms of challenges including attempts by the state to co-opt it during the Moi era. Indeed, majority of the civil society organizations were if not co-opted, muzzled or proscribed by the Moi administration. Maendeleo Ya Wanawake and the Central Organization of Trade Unions (COTU) are salient victims of this co-optation. On its part KNUT survived. In fact, KNUT did not just ward off corporatism but also remained integral in determining which educational policies the state had to buy. It is this standout case of KNUT at the wake of state co-optation that remains unexplained. The available literature on corporatism in Kenya mainly revolves around the Central Organization of Trade Unions (COTU), Maendeleo Ya Wanawake, the Law Society of Kenya (LSK), Churches, the Student Organization of Nairobi University (SONU), the Universities Academic Staff Union (UASU), Matatu Vehicle Owners Association (MVOA) and the Civil Servants Union. None of the literature takes cognizance of KNUT as far as state corporatism is concerned. In fact KNUT is not captured among the survivors of state corporatism. On the other hand, Jacqueline Githinji and Christine Onyango have studied KNUT. Githinji discusses the representation of women in KNUT which she terms disproportionate because men are advantaged,⁵ while Anyango et al examine the challenges facing KNUT. All these works though generate much information to the study of KNUT, they do not in any way explain why and how this union succeeded to remain independent and forceful, and managed to represent its members despite the state corporatist machinations employed by the

⁵Jacqueline N. Githinji, "Participation of Women in Trade union leadership in Kenya: A case study of the Kenya National Union of Teachers (KNUT)", M.A project (Sociology), Labour Management Relations, University of Nairobi, July 2003, p 41.

government. Therefore, due to non-existence of any systematized information pertaining KNUT and the state, this research intended to bridge the gap. The study has brought to the fore the hidden dynamics of state corporatism in Kenya by unlocking what transpired KNUT's survival from state co-optation.

1.4 Objectives of the Study

The study focused on the following objectives.

- i. To investigate the nature of state corporatism in Kenya during the Moi regime and how it was employed against trade unions and other civil society organizations.
- ii. To explain KNUT's strategies of surmounting state co-optation.
- iii. To examine state corporatism during the Kibaki era.

1.5 Justification of the Study

The Kenya National Union of Teachers (KNUT) has been proactive in ameliorating teachers' conditions. This has been due to its large union membership and the maintenance of union militancy via numerous industrial actions. For example, since 1962, KNUT has organized many strikes to advocate for better pay and working conditions for its members as well as pushing for important reforms geared towards improving the education sector in the country. KNUT pursued her agendas at all odds including at the period between 1982 and 2002 when the state had waged confrontational crackdown on the civil society organizations and social movements that were anti-establishment. While the majority of the organizations succumbed to the state corporatist machinations, KNUT seems to have survived. In fact, this union remained so critical of government policies in education such that rarely could the implementation of any policy take off without its endorsement. This ability of KNUT to remain distinguished by escaping the onslaught from the state has remained unexplained. The study therefore investigated the uniqueness of this union that appears to have warded off corporatist tendencies of the government at a time when majority of movements and civil society organizations were muzzled. By so doing, the study has, first, helped to unfold the hidden dynamics in the union/state relationship in Kenya in the aforementioned period. This includes why KNUT survived the onslaught. Secondly, it has helped to bring to the fore the

features that trade unions and civil society organizations should possess to enhance their independence from the state. This regards to what constitute an organization's vibrancy and ability to ward off state manipulations. Lastly, the study forms the basis for further scholarly investigation on similar topics, especially on state/labour relations.

1.6 Scope and Limitations of the Study

The study examined KNUT's resistance against state co-optation between 1982 and 2013. The study took cognizance of the year 1982 because of the coup attempt that sparked a new political trajectory. The coup attempt ignited an unprecedented response by Moi and the state on citizens and civil society groups, such that any individual or groups holding oppositional views towards the state was dealt with ruthlessly. The result of this onslaught on people and groups was the co-optation and muzzling of freedoms. 2002-2013 represents a new era with the end of the KANU autocratic rule after the capture of state power by the National Rainbow Coalition (NARC) which restored freedoms to individuals and the civil society organizations. This saw a change from Moi's coercive style of rule to a liberal one, though with some new corporatist tendencies.

Several challenges were encountered during the study. First, choosing and accessing informants was quite challenging. This is because KNUT's operations affected many sectors in the country, and some institutions and individuals declined to give information. Even at the KNUT headquarters, access to the library and previous minutes of past meetings was difficult. Nonetheless, some who were willing to be interviewed provided an insight to the study by not only offering information but also linking the researcher to other relevant informants. Secondly, conducting interviews took a lot of time, and tracing the interviewees also remained quite a challenge particularly due to rescheduling of interview sessions by interviewees. Thirdly, the study required a review of several sources in the Kenya National Archive, and the thirty years rule that governs access to materials in the archives hampered capacity to access a lot of information related to the subject of study. The study had to consult other primary and secondary data sources available to provide information not accessible in the archives due to the thirty years rule.

1.7 Literature Review

Civil society as a field has attracted many scholars with similar and divergent views. It is out of these scholarly works that incumbent scholars and researchers build the foundations of the areas of their studies as well as earmarking the perceived missing links for corrections. The following works were reviewed for the purpose of this study.

Singh, in his book, *History of Kenya's Trade Union Movement to 1952*, examines Kenya's trade union movement from the formation during the colonial period to early post-colonial era. He provides valuable data for understanding how the process of class formation in Kenya began by discussing the *Wafanya Kazi/Watajiri* syndrome. He discusses the problems workers encountered especially following the State of Emergency in 1952, which brought trade unions under close watch by the government; and attempts unions made to improve their material conditions by organizing strike action and other forms of protest. He observes that the emergency directives rendered many sprouting unions ineffectual and most of them withered after the arrest of their leaders and only those bolstered by international organizations survived this turbulence.⁶ Singh lays the foundation for our understanding of early trade unionism in Kenya and how the colonial government formulated strategies to control the trade unions; strategies that were later modified by the post-colonial regimes to totally disable civil society organizations. The book however does not capture any of the Kenyatta, Moi and Kibaki regimes' state-labour relations, a gap which this study has filled by discussing KNUT's battle with state co-optation.

Sandbrook observed that the malfunctioning of the trade union movement in Kenya started at independence, when it was emasculated by the state through residue mechanisms it borrowed from the colonial regime.⁷ He further posits that apart from the co-optation of the unions by the government through stringent labour laws, external forces and increased infighting paralyzed the labour movement rendering it ineffective in the articulation of workers' interests. This book establishes the genesis of state corporatism in Kenya, hence, it was

⁶ Makhan Singh, *History of Kenya's Trade Union Movement to 1952*, Nairobi, East African Publishing House, 1969, p.6.

⁷ Richard Sandbrook, *Proletarians and African Capitalism: The Kenyan Case, 1960-1972*, Cambridge, Cambridge University press, 1975, p.28

relevant to this study. It also helped to understand how post-colonial governments rolled out mechanisms to destabilize trade unions.

Aluchio in his book, *Trade Unions in Kenya: Development and the system of Industrial Relations*, traces the historical perspective, the emergence and development of trade unions, the organization and the entire system of industrial relations in Kenya. Aluchio cites government control of trade unions as the main obstacle to the effectiveness of trade unions. In his view, the meddling of KANU in the COTU elections led to the election of malleable officials who were manipulated by the state, hence killing union militancy.⁸ The officials became incapable of facing the tough employers and government when fighting for workers' rights. This book was relevant to the study because it analyses labour system in Kenya including union organizations and state control machineries against trade unions. The book provided a benchmark on which to evaluate the role of KNUT's leadership and organization as among the parameters behind its survival from state co-optation.

Desai and Habib in their article on state corporatism in South Africa, observe that the rise of state corporatism in South Africa was associated with political elites. According to them, the post Apartheid South African government faced discontentment from trade unions. The unions staged frequent strikes demanding for better pay. The government subsequently adopted corporatism to deal with workers.⁹ The government exercised corporatism through the offering of expensive foreign trips and high government positions to senior union officials. On the other hand non-cooperative union officials were harassed by the government. Despite these challenges, the South Africa unions remained focused in addressing workers' rights through regular industrial actions.¹⁰ Though based on South Africa, this article provided a yardstick with which to examine the nature of state corporatism in Kenya.

Githinji avers that unions maintain a bias that excludes women in the top decision making bodies. While investigating factors behind the low participation of women in trade union

⁸ L.P.A. Aluchio, *Trade Unions in Kenya: Development and the system of Industrial Relations*, Nairobi, Jomo Kenyatta Foundation, 1998, pp. 148- 149.

⁹ Aswan Desai and Adam Habib, "The Rise of Corporatism in South Africa's Automobile Industry", *The Journal of Modern African Studies*, vol.35, No. 3, September, 1997, p.499.

¹⁰ Ibid

leadership in Kenya with special consideration of the KNUT, Githinji casts the blame on the male-dominated union for sidelining women in the top union managerial portfolios despite the sheer numerical strength of women in the union.¹¹ She also acknowledges the vibrancy of KNUT in advocating for better terms of service to its members though with a host of intrigues bedeviling it. Githinji's analysis of disproportionate representation in KNUT is elaborate, but more remain unattended to. For example, she fails to explain why KNUT remains vibrant in championing the members' grievances despite state onslaught on trade unions. Thus, this study stepped in to bring these to the fore through the discussion on KNUT's survival from state co-optation.

In their article, "The State vs. the Academic Unions in Post-colonial Kenya," Mazrui and Mutunga describe Moi's ferocious war against the Universities Academic Staff Union (UASU). UASU failed to be registered due to its outspoken nature against president Moi's leadership style. According to them, the government's viewpoint was to frustrate any group of government employees who wanted to organize a trade union, to better bargain around their terms of service.¹² They argue that Moi and his government feared any group that posed danger to the survival of the regime, hence, the crackdown on some civil society organizations. This article demonstrates how difficult it was for 'dissident' groups to survive state co-optation and remain operational during Moi's reign. However, how other unions including KNUT survived such attacks remained a centre of focus which this study has unlocked. This study therefore, established the dynamics that led to the survival of KNUT despite a heavy crackdown on civil society by the state.

Allen, in his book, *Trade Unions and the Government*, provides an analysis of the relationship between trade unions and the government. To Allen, trade unions must exert pressure on the government to influence its decisions. He asserts that any well organized and aggressive labour movement rarely avoid strikes particularly if other weapons of presenting their grievances have failed. He says, "It's the most aggressive form of industrial protest... strikes are capable of being directed against the state and therefore of having some impact on

¹¹ Githinji, "Participation of Women in Trade union leadership in Kenya: A case study of the Kenya National union of Teachers (KNUT)", p 41

¹² Alamin Mazrui and Willy Mutunga, "The State vs. the Academic Unions in Post-colonial Kenya", *Review of the African Political Economy*, vol. 22, No. 64, June, 1995. p 258

the authority of a government.”¹³ This book was relevant to this study because of its emphasis on the role of strikes in enhancing union militancy. This study explored several occasions when KNUT engaged the government through strikes and boycotts to pursue their demands, as well as countering state co-optation.

Matanga argues that the Moi government was determined to silence any divergent views via various strategies. Among these strategies included, legislation, political appropriation, use of propaganda, removal of anti-establishment leaders, and the reconstruction of NGOs into new organizations by government fiat.¹⁴ Matanga’s analysis of state antagonism against civil society organizations is detailed and formed the basis of examining the corporatist strategies employed by the Moi and Kibaki regimes against trade unions and other civil society organizations. However, he fails to mention or to discuss the strategies adopted by the surviving unions or organizations. This subject has therefore been addressed in this study while establishing the forces behind the stand out case of KNUT from state attacks.

Gakii identifies mismanagement, emerging technological advancements and their effects on industrial relations, political interference, poor economic growth and the unemployment challenge, lack of political goodwill, the training challenge, lack of policy guidelines, incompetence among trade union officials, globalization and new management styles, and union rivalry, as the challenges facing trade unions.¹⁵ She further accuses unions of failing to represent workers well despite siphoning off the members’ dues.¹⁶ Gakii’s work which highlights the many challenges that trade unions face was instrumental to this study because it became essential for the study to establish how KNUT navigated all these challenges to remain independent and strong to take on the government. Her work however, is a bit subjective particularly in the conclusion where all trade unions are depicted as failures and are only drawing dues from members.

¹³ V. I. Allen, *Trade Unions and Government*, London, Longmans, 1961, p.116

¹⁴ Frank K. Matanga, “Civil Society and Politics in Africa: The case of Kenya”, *Fourth International Conference of ISTR, Trinity College, Dublin, Ireland, July 5-8, 2000*, p 24

¹⁵ Purity Gakii Muthamia, “An investigation into some of the challenges facing Trade Union in Kenya: A case study of Bakery, Confectionary, Manufacturing and Allied workers unions in Nairobi”, M.A Project Paper in Sociology, Labour Management and Relations, University of Nairobi, July 2003, p 47

¹⁶ *Ibid*, p 7

Fincham posits that important decisions about workers' conditions should regularly be drawn from the relationship between national leaders, employers and other interest organizations. According to him, union leaders should consult and always act on the mandates members.¹⁷ He notes that anything outside this results to suspicion and mistrust between the union officials and members which in the long run kills union militancy. This book was relevant to this study because it discusses what keeps union cohesiveness and militancy and its supposed relationship with the state. It helped to assess the extent to which KNUT managed to seek the members' mandates as a way of solidifying the union to battle corporatism.

Feather, in his book, *The Essence of Trade Unionism*, notes that a union should avoid political influence. This is because, by allowing party influence on its activities, members' interests become secondary.¹⁸ In his view, trade unions are free to support a political party, just like in Britain where the trade unions support the Labour Party. He however discourages a scenario where a political party controls and interferes with the activities of a trade union.¹⁹ He suggests that trade unions must be free to follow their policies. Feather's work, helped to establish that though KNUT worked closely with both the Moi and Kibaki governments in several educational issues, the union pursued its policies independently. This often led to union/state collisions.

Ukundi cites several machinations devised by Nkrumah's one-party state in Ghana to undermine trade union movement. In his view, the relationship between the Convention People's Party (CPP) regime and the Trade Union Congress (TUC) was increasingly becoming gloomy owing to economic crisis in the first phase of independence. Thus the CPP government used corporatist strategies such as replacing of radical union leaders with less radical/pro-establishment ones. For example, the government saw a monster in TUC Secretary General Tettegah who was replaced because of his critical stance against the government.²⁰ Appointment of militant leaders in Ghana's foreign embassies, intimidation of

¹⁷ Robin Fincham, "The Trade Union Movement in Africa: Promise and Performance", *The International Journal of African Historical Studies*, vol.14, No. 4, 1981, p. 760

¹⁸ Victor Feather, *The Essence of Trade Unionism: A Background Book*, London, The Bodley Head Ltd, 1963, p 37

¹⁹ Ibid, p 79

²⁰ Ukundi Damachi, *The Role of Trade Unions in the Development Process, with a Case Study of Ghana*, New York, Praeger publishers, 1974, p.50

union leaders, and reduction of national unions, were other well masterminded strategies by CPP to neutralize the union efficacy and assert its proprietorship over TUC. This book was relevant to this study because it discusses the salient corporatist strategies used in Ghana. Thus, it acted as a mirror on which to examine how the Kenyan regimes managed to silence some civil society organizations.

In similar vein, Konings in his book, *Labour Resistance in Cameroon*, discusses militancy by examining the labour control and labour resistance within the largest agro-industrial enterprise in Cameroon, the Cameroon Development Corporation (CDC). The Cameroonian government together with other employers became increasingly determined to establish control over the labour process and raise labour productivity. This was in disregard to the welfare of the workers. According to Konings, the state created a militarily-like command structure, introduced disciplinary measures inside and outside the labour process, and employed ideological indoctrination to undermine the labour movement.²¹ Nonetheless, through the use of strikes, riots, demonstrations, and go-slows, the workers were able to prevail upon the government. They resisted any attempts of co-optation. Union leaders who portrayed lenience to the state were ousted from office. Koning's book covers a relatively similar authoritarian regime like in Kenya during the Moi era, hence, the strategies used by the unions in Cameroon to counter the state onslaught formed the basis on which to examine KNUT's survival from state co-optation.

Elliot, in his book, *Conflict or Co-operation? The Growth of Industrial Democracy*, discusses the power and responsibilities of trade unions and their relationship with the employers and government. He points out that the unions cannot achieve the advances they want for their members without negotiating with both the government and industrialists.²² He therefore suggests that, under the broad heading of "industrial democracy", the government should recognize the role of unions in representing the rights and aspirations of workers. Similarly, unions are expected to recognize the position of the government on labour-related issues.²³ Eliot argues that failure by the two to embrace industrial democracy will stir the

²¹ Piet Konings, *Labour Resistance in Cameroon: Managerial Strategies and Labour Resistance in the Agro-Industrial Plantations of Cameroon Development Corporation*, Leiden, African Studies Centre, 1993, pp. 81-82

²² John Elliot, *Conflict or Co-operation? The Growth of Industrial Democracy*, London, Kogan Page Ltd, 1978, p3

²³ Ibid

outbreak of conflict. Elliot's recommendations are good particularly in an ideal society where all parties want to embrace 'industrial democracy'. However, his ideas cannot apply in authoritarian regimes like Kenya, during the Moi era, where the government emphasized on productivity in disregard of the workers' welfare. Nevertheless, his analytical work particularly in relation to what can stir conflict; the power of numbers and the accompanied militancy remained valid in examining the standout case of KNUT in dealing with the state onslaught.

Gall, and Penn, while exploring the factors that led to the decline of the British trade unionism in the 1940s, observe that the loss of membership was paralleled by a well-publicized decline of industrial militancy as indicated by the frequency of and duration of strikes.²⁴ He avers that the decline in union membership enabled the government to launch a series of major legislative Acts that hampered strikes, thus rendering trade union recruitment more difficult.²⁵ Though centred on Britain, this book provided a yardstick on which to determine how KNUT membership accounted for union militancy to deal with state-corporatism.

According to Khama, free trade unions are an essential instrument for democracy and they cannot be effective if they are manipulated by government, political parties or by any external agency.²⁶ In his view, a trade union movement must seek to maintain the confidence of all its members irrespective of party affiliation. He therefore challenges trade unions to only participate in political issues but not to become agents of political parties. This article was relevant to this study because it highlighted the role of trade unions and their supposed relationship with the government or political parties. It helped to establish that though KNUT shared some ideologies with various political parties, it pursued its agenda independently, hence, its vibrancy and ability to overcome co-optation.

1.8 Theoretical Framework

²⁴ D. Gallie and R. Penn, "The British Debate on Trade Unionism: Crisis and Continuity", in Duncan Gallie, et.al. (eds), *Trade Unionism in Recession*, New York, Oxford University Press, 1996, p.1

²⁵ Ibid, pp.1-2

²⁶ Seretse Khama, "Trade unions in Botswana", *Africa Today, Labour and Development*, vol.19, No.2, (spring, 1972), p.9

The theory of State Corporatism guided this study. State Corporatism is one of the two typologies of corporatism proposed by Philippe Schmitter. The first is Social Corporatism which describes the arrangements in democratic societies, where certain independent interest organizations are given representational monopoly because the support given by their members makes the government enjoy legitimacy. On the other hand, State Corporatism, describes arrangement in a totalitarian and authoritarian societies. In this case, the state creates or recognizes interest organizations and gives them representational monopoly mainly as a result of political ambitions of ruling elites. The state in such cases eliminates alternative interest groups, leaving the co-opted organization absolutely dependent on the state for its legitimacy and continued operations.²⁷

Corporatism can be traced to an elitist and authoritarian heritage that was imparted to Latin America by its colonial powers. On the other hand, Maier suggests links the origin of societal corporatism in Western Europe could to the rise of mass labour movements, and the political challenge they posed to the regimes. He contends that the demands for increased production prompted the establishment of corporatist arrangements during and after World War 1, and that they were renegotiated by state elites after World War II.²⁸

Schmitter discusses the features of state corporatism. He argues that in such a society, territorial subunits are tightly subordinated to central bureaucratic power. Secondly, elections do not exist and if they are held, the state meddles in them. Thirdly, party systems are dominated or monopolized by a weak single party. Fourthly, executive authorities are exclusive in ideologies. They are even more narrowly recruited, where political subculture based on class, ethnicity, language, or regionalism are repressed.²⁹ Mihail Manoilescu another corporatist scholar gives a justification as to why states adopt state corporatism. First, with corporatism, states command a continuous hierarchy of authority leading to harnessing of loyalty from an organization. Secondly, the system brings out balance. This is realized when leadership is depersonalized as a result of creating vertical units of interest groups.

²⁷ Philippe C. Schmitter, "Still the Century of Corporatism?" *Review of Politics*, vol.36, No.1, (January, 1974), p.105

²⁸ Charles Maier quoted by Desai and Habib in, "Labour Relations in Transition: The Rise of Corporatism in South Africa's Automobile Industry", pp.498

²⁹ Schmitter, "Still the Century of Corporatism?", p. 105

Thirdly, through the process of devolving authority from the state to ‘neatly defined’, ‘never contradictory’ and ‘pre-established’ interest hierarchies, the state is relieved of decisional and implementation responsibility over nonessential matters. Finally, corporatism helps to suppress the ‘spirit of class’. This is because the vertical pillaring brings a disconnection between the shop floor and the officials, thus killing militancy.³⁰

Schmitter points out several modalities used to promote state corporatism. They include, direct government subsidies for associations, official recognition of bona fide interlocutors, appointment in specialized advisory council, occupying positions of control in joint public-private corporations, enjoying quasi-cabinet status, and finally, direct participation in authoritative decision-making through national, economic and social councils.³¹

This theory has been criticized for creating confusion with the theory of causes of the erosion/ collapse of liberal democracy and the advent/ consolidation of authoritarian rule. According to Schmitter, It is difficult to separate state corporatism with the rise of authoritarianism. This is because, authoritarianism also involves the co-optation of interest organizations.³² Thus to him, inquiry into the origins of corporatism of either type leads one to the constraints, opportunities and contradictions placed upon political actors by the operation of the economic system. Despite the above weakness, State Corporatism theory was ideal for this study because it captures the unfolding dynamics of state co-optation including the meaning, tenets, reasons in support for state corporatism, the modalities used by states to enhance it and the anti- corporatist survival tactics. It is in this light that the theory was found appropriate in this study. The theory was used by Philippe Schmitter to study labour/state relations in the Iberian Peninsula as well as by other scholars in the study of labour movement in Latin America and Africa.

³⁰ Ibid pp.120-121.

³¹ Ibid

1.9 Research Hypothesis

This study was based on the following hypothesis.

1. The Moi administration devised various corporatist strategies to control trade unions and other civil society organizations.
2. KNUT employed various strategies to resist state corporatism.
3. Despite opening a democratic space, the Kibaki regime adopted control measures against KNUT.

1.10 Methodology

This study was based on both primary and secondary data. The research was conducted in three levels. The initial level involved consulting available literature in libraries, which were relevant to the study. The secondary sources that were analyzed in this level included books, scholarly journals, articles, theses and M.A projects. The secondary sources helped to shed light on state-civil society relations; hence they provided a yardstick on which to examine State Corporatism in Kenya through the study of KNUT. Libraries such as the Jomo Kenyatta Memorial Library of the University of Nairobi, the Nation Centre Library, and the Kenya National Library were instrumental in accessing the secondary data.

The second stage of the research involved the use of primary sources of data. Materials consulted included annual reports on trade unions, written speeches by government and union leaders, minutes of the past government and trade union meetings; Parliamentary or Legislative Acts, letters, past KNUT strategic plans and the constitutions, and the KNUT magazines and newsletters. The Kenya National Archives availed the weekly review newspapers, previous speeches, and letters touching on the union, Ministry of Labour, Education and the Teachers Service Commission. The KNUT constitutions, strategic plans, and magazines were acquired from the KNUT headquarters in Nairobi. The primary sources enriched the study by corroborating the information that was gotten from the secondary sources.

The third stage of the research involved in-depth conversational interviews. The groups interviewed were, the KNUT administrators at the KNUT headquarter in Nairobi, the KNUT

NEC officials, branch officials, school representatives and teachers; officials from KUPPET, the Ministry of Labour, and the Ministry of Education. The research was carried out on ontological position, where people's knowledge, view, understanding and interpretations became meaningful for the generation of the knowledge. Though the research interviews adopted a conversational tone, the interviews were guided by some generated topics or guiding themes, which kept the interviews focused on key issues.³³ Note-taking and tape recording were used to collect data during oral interviews.

Purposive and snow-balling sampling techniques³⁴ guided the study in choosing the respondents. The researcher started by choosing the respondents who, in his judgment, were relevant before being directed to other respondents. The study employed mainly the qualitative research method which made it possible to start the study with an open and flexible approach, which was essential in framing and analyzing data. Nonetheless, the quantitative research method was also used especially in analyzing salary increments offered to teachers by the government.

³³ Kisilu Kombo and Delno Tromp, *Proposal and Thesis Writing: An Introduction*, Nairobi, Paulines Publishers, 2011, p.93

³⁴ Kothari C. K, *Research Methodology: Methods and Technique*, New Delhi, New Age International Publishers Ltd, 1990, p.59

CHAPTER TWO

THE NATURE OF STATE CORPORATISM IN KENYA

2.1 Introduction

Kenyans greeted the attainment of independence in December 1963 with a lot of excitement. Many Africans believed the dawn of freedom had arrived, and the colonial yoke and bondage would be something of the past. The trade union movement having been part of the integral players in the realization of *uhuru* (freedom), positioned itself to continue taking a centre stage in representing the workers in the post-colonial Kenya. It also anticipated a break away from the colonial system where unions were subjected to various containment strategies that restricted their scope of activities.

This however, remained a tall order because the state opted for the status quo. In fact some of the gains made by unions before independence were circumscribed. The Kenyatta government devised varied mechanisms to undermine trade unions. The result was the creation of a docile labour movement that was always submissive to the state. The height of this onslaught was during president Moi's era. Moi endeavoured to follow his predecessor's footsteps and thus little changed. He modified on colonial and Kenyatta's corporatist strategies to render most of the civil society organizations ineffective. This chapter discusses the origin of State Corporatism in Kenya, its salient characteristics, and the various approaches used by both the Kenyatta and Moi regimes to entrench it.

2.2 Corporatism: The Concept

Corporatism has been an integral guiding principle for government/civil society relations. It refers to a pattern of state-society relations where the state takes the role of structuring and regulating interest organizations.³⁵ Alfred Stepan defines corporatism as a particular set of policies and institutional arrangements for structuring interest representation.³⁶ Philippe Schmitter, the renowned corporatist scholar defines state corporatism as a system of non-

³⁵ Andrew MacIntyre, "Organizing Interests: Corporatism in Indonesian Politics", *Asia Research Centre*, Working Paper No.43, August 1994, p.1

³⁶ Alfred Stepan, *The State and Society: Peru in Comparative Perspective*, Princeton, Princeton University Press, 1978, p.46

competitive, compulsory hierarchical and limited-interest representation which helps the ruling elites to “repress and exclude the autonomous articulation of subordinate class demands.”³⁷

2.2.1 State Corporatist Strategies

Valenzuela identifies market mechanism and syndical harshness as the main state corporatist strategies employed by authoritarian regimes against labour organizations.³⁸

2.2.1.1 The Market Mechanism

According to Valenzuela, the Market mechanism corporatist strategy entails the weakening of the bargaining power of unions. In this regard, collective bargaining is devolved such that the use of strikes and picketing becomes hampered with.³⁹ Unions are also restricted of using union funds to mobilize workers to an industrial action. Moreover, many aspects of the economy are deemed “strategic”, hence work stoppages in them are curtailed.⁴⁰ The state further makes the unionization of workers voluntary. This strategy denies unions the numerical strength derived from many members to battle with the state. The state also makes the registration of splinter unions easy, to create antagonism between them. The unions are also restricted to membership contributions as their legal source of funding. Valenzuela contends that, though union democracy may be encouraged through frequent elections for new leaders, the state can meddle in union elections to ensure they have pliable leaders that can easily be co-opted.⁴¹ Those officials termed controversial to state advances are often harassed by the regime. With all these in place, he avers that whatever bargaining rights and power unions are formally given, have less economic impact, since the restrictions under which they operate render them weak.⁴²

2.2.1.2 A Syndical Harshness

Syndical harshness or mildness dimension of labour control refers to the process by which an authoritarian regime limits the channels for the expression of the collectively formulated

³⁷ Ibid

³⁸ Samuel J. Valenzuela, ‘Labour Movement in Transitions to Democracy: A Framework of Analysis’, *Comparative Politics*, vol. 21, No.4, July 1989, p.448

³⁹ Ibid

⁴⁰ Ibid

⁴¹ Ibid

⁴² Ibid

worker grievances.⁴³ The state in this regard ensures that workers have limited avenues to articulate their collectively reached grievances. For example, through the use of legislations, trade unions can be prohibited from staging strikes. The state can also deregister, threaten of deregistration or deny the registration to an organization it considers controversial. The state can furthermore, unleash violence on demonstrators. Valenzuela posits that a syndical harsh regime tends to cause the accumulation of unaddressed resentments that can finally trigger a strong wave of strikes and demonstrations.⁴⁴ The regime also drives union officials to overstep the restrictions or labour rules by organizing the defense of workers' rights. According to Valenzuela, the more restrictive the labour legislation, the greater the magnitude for such overstepping.⁴⁵ In order to break this harshness from the state, these organizations rely on tactics such as street demonstrations and disturbances, strikes, boycotts, lobbying for the international isolation of the regime, and to the worst, armed insurrection which includes staging a coup.⁴⁶

Authoritarian regimes may therefore, employ either or both strategies to muzzle labour movements. According to Valenzuela, the the objective of the state is to, first, create industrial relations systems that prevent workers from using the necessary avenues to demand for the rights. Second, the state tarnishes the union's militant leaders, hence, weakens their ability to mobilize workers to push for their grievances. These officials often become targets of government, which could unleash terror on them. Third, the state weakens union organizations from the grassroot to the national level. And fourth, they suppress the opposition party or parties that are associated with the activities of these unions.⁴⁷

Valenzuela's analysis of state corporatist machinations is reflected in the works of A. Fowler, Mutahi Ngunyi, Kamau Gathiaka and Frank Matanga. Fowler identifies three key strategies that states in Africa have employed to silence trade unions and civil society organizations. These are legislation, administrative co-optation, and political appropriation.⁴⁸ On the other

⁴³ Ibid, p.457

⁴⁴ Ibid, p.458

⁴⁵ Ibid

⁴⁶ Ibid

⁴⁷ Ibid, p.449

⁴⁸ A. Fowler "Political dimensions of NGO Expansion in Eastern and Southern Africa and the Role of International Aid", *Mimeo*, April, 1990, p.22

hand, Ngunyi and Gathiaka, cited by Ndegwa, give a more refined and specific analysis of state co-optation machinations during the Moi era. They include, deregistration or proscription, emasculation by forcing the removal of leaders or the withdrawal of resources and privileges, the reconstruction of organizations into new bodies by the government, and reduction of contacts with the state to avoid antagonism.⁴⁹ Matanga associates legislation with actual deregistration and the threat of deregistration, refusal to grant registration, and the drawing of new legislations to control the growth and activities of civil society organizations.⁵⁰

2.3 The Origin of State Corporatism in Kenya

2.3.1 State Corporatism in colonial Kenya

Trade union movement in Kenya began in the early 1900s. It however took almost 50 years before the movement became a permanent feature in industrial relations scene. Factors such as the strong opposition of the elite settler employers, the smaller number of wage earners, the authoritarian nature of the colonial political system, the residual labour laws, and high level of illiteracy among wage earners, were clear impediments to the realization of unionism.⁵¹ However, after World War Two, unions assumed a radical stand in dealing with the government. Greater advancements epitomized the labour movement, with the former ex-servicemen becoming militant leaders of workers. This however, as Aluchio avers, remained a source of concern to the British colonialists. Therefore, containment strategies were to be devised in order to ostensibly keep the labour movement at bay. Indeed, Aluchio demonstrates how the colonial government structured and regulated trade unions through paternalistic legislation. For example, in 1949, a trade union registration ordinance, “Compulsory Labour Act” and a “Deportation Ordinance” were enacted to empower the government to monitor and direct the activities of trade unions and workers.⁵² With this

⁴⁹ S. Ndegwa, *The two faces of civil society: NGOs and politics in Africa*, Connecticut, Kumarian Press, 1996, p.26

⁵⁰ Frank Matanga, “Civil Society and Politics in Africa: The case of Kenya”, *Fourth International Conference of ISTR*, Trinity College, Dublin, Ireland, July 5-8, 2000, p.25

⁵¹ Aluchio, *Trade Unions in Kenya: Development and the System of Industrial Relations*, p.2

⁵² Ibid

legislation in place, the colonial government assumed immense powers of control that restricted the role of trade unions.

Other measures were put in place by the government in the 1950s to discourage the development of trade unions and limit their political consciousness and power. First, the government introduced staff associations and works committees. Secondly, it established statutory wage determination machinery by forming wage council for various industries to regulate wages within the specific area. Thirdly, it provided close control over internal activities of the unions through the Registrar of Trade Unions who had the powers to de-register the unions. And lastly, it imposed a compulsory arbitration and other control measures in industries termed essential. This operated under the “Essential Services Ordinance.”⁵³

Despite these paternalistic measures employed by the colonial government to muzzle trade unions, they developed steadily and began asserting their influence on the colonial regime. They staged demos, boycotts and actual strikes, apart from the support they received from international labour movements, to survive state control. They became vocal in campaigning for independence as well as agitating for better terms of service to its members.

2.3.2 The Post-colonial Kenya and the Growth of State Corporatism

Just like the colonial regime, the post-colonial Kenya assumed a central role in defining the direction of the NGO's, trade unions, and even religious organizations. Gona avers that nation building and developmentalism became the hegemonic ideologies in KANU's strategy of social domination, ⁵⁴hence, Kenyatta's move to incorporate trade unions in his development agenda. His administration devised strategies of incorporation to ensure a moderate civil society. The Moi regime on the other hand, witnessed strict control of these organizations as part of the power consolidation strategy. Campaigners for a fair and just society suffered torture, imprisonment and even death. This left many civil society gradually incorporated into the Moi-KANU axis.⁵⁵

⁵³ Aluchio, *Trade Unions in Kenya*, p.2

⁵⁴ Gona, “Workers and the Struggle for Democracy in Kenya”, p.46

⁵⁵ *Ibid*, p.141

2.3.2.1 The State-Civil Society Relations in the Kenyatta Regime (1964-1978)

The Kenyatta regime (1964-1978) was characterized by an emphasis on economic productivity and hence the policies that were formulated only recognized civil society as subordinates. According to Matanga, the regime encouraged most unions and civil society in general to act as supplements in the process of nation building and economic development.⁵⁶ The interests of workers were left at the periphery as the government went ahead to achieve economic objectives. Through the African Socialism as a blueprint for development, the Kenyatta administration allowed foreign entrepreneurs to dictate and thus controlling the economy.⁵⁷ While quoting Sandbrook, Gona argues that there was general obsession with foreign investment by the government, leading to peripheral treatment of the workers.⁵⁸ With this agenda in place, the labour force only enjoyed the independence ‘honeymoon’ for a while before being embroiled in the same corporatist treatment.

The conflict between the state and the labour movement began in 1963 when several workers’ strikes occurred. Tom Mboya the then Minister for Labour instructed the Legislative Council, of the need to restrict the right to strike.⁵⁹ Mboya was responding to the demands by trade unions that were calling for the Africanization of various sectors of the economy apart from advocating for better pay. At the same time, a section of workers had also declared their support to the opposition party, KADU in the May 1963 general elections, thus widening the rift.⁶⁰ To arrest the situation, the state appointed its loyalist, Clement Lubembe, a KANU senator and president of the Commercial Workers Union, to replace Peter Kibisu as the head of the Kenya Federation of Labour (KFL).

Justification for Trade Union Control in the Kenyatta era

The Kenyatta government was quite instrumental during the first years of independence in neutralizing the dissents. The state stood on the agenda of nation building and

⁵⁶ Matanga, “Civil Society and Politics in Africa: The case of Kenya”, p.10

⁵⁷ Gona, “Workers and the Struggle for Democracy in Kenya”, p.42

⁵⁸ Ibid

⁵⁹ Davies Loan, *African Trade Unions*, Penguin Books Ltd, 1966, p.168

⁶⁰ Ibid

developmentalism, as the reason of its pursuance of the corporatist ideology.⁶¹In this regard, the government expected moderation in the demands from labour movement including those relating to wages to meet its primary objective. Labour disturbance or any form of sabotage was prohibited. Indeed as early as 1964, the radical segment of the labour movement had demanded an incomes policy that was meant to stipulate the procedures which the government would adopt to improve the livelihood of workers.⁶²With such demands, the government became uncomfortable with the unions. In response, the government masterminded the formation of a commission to draw up an incomes policy. The findings were however, never adopted and implemented. It was not until 1973 that a remuneration policy was formulated. Meanwhile, the unions were supposed to restrain their members' demands including wages, to create a desirable environment for capital growth.⁶³

The ceaseless union wrangles were another factor behind the policy of containment by the Kenyatta government. The independence of Kenya was achieved with a divided labour movement. There were in-fightings in the labour movement over issues to do with international affiliations. Alfayo Nyakundi traces the genesis of a divided trade union. He says that within the Kenya Federation of Labour (KFL) divisions emanated out of its affiliation to KANU, with Peter Kibisu, who had succeeded Mboya as the general secretary of KFL, attempting without success to form a new Labour Party.⁶⁴ This saw many KFL members resort to opposing KANU in the 1963 general elections, complicating matters further. Division within the KFL radicals and moderates also continued over KFL's affiliation and close relations with the ICFTU and the British and American Labour unions.

This struggle continued into 1964, culminating in the expulsion from KFL of the secretaries of the Petroleum Workers Union and the Dock-Workers Union. The opposing groups, composed primarily of the Petroleum Workers Union, formed a rival union called the Kenya Federation of Progressive Trade Unions (KFPTU).⁶⁵ It was first denied registration, but on a

⁶¹ Gona, "Workers and the Struggle for Democracy in Kenya", p.46

⁶² Oginga Odinga, *Not Yet Uhuru*, p.308, quoted by Gona, in "Workers and Struggle for Democracy in Kenya", p.51

⁶³ Gona, "Workers and the Struggle for Democracy in Kenya", p.46

⁶⁴ KNA, BS/2/4/ Alfayo Nyakundi's speech on labour movement in Kenya at the 57th Harvard University Programme, 1975

⁶⁵ Ibid

second try in 1965, under a new name, the Kenya African Workers' Congress (KAWC), it was registered. This ushered in supremacy battle between the two. The peak of this rivalry was in April 1965 when Joseph Mugalla the branch secretary of the Commercial and Distributors Union which was aligned to the KFL group convened a meeting in Mombasa to elect branch officials. The group allied to the KAWC stormed into the meeting leading to the eruption of violence that left two security guards dead.⁶⁶

According to Nyakundi, it was in the wake of this heinous incidence that president Kenyatta appointed on 23rd June 1965 a presidential Ministerial Committee to inquire into the trade union movement so as it could be reorganized in the interest of Kenya. The committee under the chairmanship of the new Minister for social services Mr. E.N. Mwendwa, and of the Minister for Commerce and Industry, Dr. J.G. Kiano, in August submitted its report entitled, "The policy on Trade Union Organization in Kenya." Among the recommendations were;⁶⁷

- i) Immediate de-registration of the rival KFL and KAWC, and the formation of a single organization- Central Organization of Trade Unions (COTU (K)).
- ii) Fresh elections, under government supervision to be held for all trade unions.
- iii) Cancellation of trade union movement affiliation with external bodies.
- iv) The check-off system to be established to provide an income for COTU and individual unions.
- v) The COTU constitution to be prepared by the Attorney General.
- vi) All trade unions as well as the government to be represented at COTU's governing council.
- vii) The conduct of the secretary general to be subject to investigation and that he was liable to supervision from the office of the president.

The above recommendations were accepted by the president in totality. In the government's point of view, the animosity between the KFL and KAWC was uncondusive for the fledging economy thus neede regulation. According to Gona, such unsubstantiated claims by the state

⁶⁶ Ibid

⁶⁷ Ibid

formed the basis to contain labour through the creation of the Central Organization of Trade Unions (COTU).⁶⁸

Kenyatta's Corporatist Strategies against Trade Unions

In an attempt to contain the labour movement, the Kenyatta government employed Valenzuela's two corporatist strategies of syndical harshness and market mechanism. The regime limited the channels used by trade unions through the enactment of various legislations, which are discussed below.

First, there was the adoption of the tripartite style of wage restraint. This was a legislative measure that was destined to contain demands for high wages. The style also aimed at pacifying trade unions, thus rendering them amenable to the state. Strike as a labour weapon was earmarked for control.⁶⁹ The use of strike as a weapon for bargaining was espoused in KAWC strategies as opposed to the moderate KFL. To the state and the moderates (KFL), strikes were impediments to economic growth, hence, controlling trade unions was the solution to this menace. The stance of the Kenyatta government towards union independence and radicalism was therefore summarized in Mboya's argument,

The right to strike is freedom, which a new country may not afford. It seems inevitable that if unions misuse their power and freedom, the right to strike must be curtailed by legislation.⁷⁰

The first tripartite agreement was adopted in 1962 under the Industrial Charter. According to this charter, employers promised to engage unions on behalf of the workers and unions committed themselves to following the established machinery of labour relations.⁷¹ Since then, all Collective Bargaining Agreements (CBAs) were to be registered at the Industrial Court; the only court vested with jurisdiction over matters arising from CBA. The Charter restricted the hands of compelled KFL to agree to settle future differences amicably through "negotiation, conciliation and voluntary arbitration."⁷² In 1964, another Tripartite Agreement was introduced following high unemployment rate. The solution was to further curb strikes

⁶⁸ Gona, "Workers and the Struggle for Democracy", p.51

⁶⁹ Gona, "Workers and the Struggle for Democracy", p.56

⁷⁰ Loan, *African Trade Unions*, p.15

⁷¹ Aluchio, *Trade Unions in Kenya*, p.6

⁷² Gona, "Workers and the Struggle for Democracy in Kenya", p.56

by prohibiting unions from demanding wage increases or embarking on strikes or go-slows. The government had targeted to absorb 15% of the unemployed and another 10% to be absorbed by the private sector. Gona terms this as another example of government's 'welfarist' inclination. It raised the governments popularity among the unemployed citizens despite loud out-cry from unions which termed the wage freeze unfair, illogical and unreasonable.⁷³

Within the same spectrum of syndical harshness, the Kenyatta regime also used Trade Dispute Act and the Industrial Court to limit trade union freedom and vibrancy. The Trade Dispute Act 1965 also emphasized on tripartite agreement. This new law prohibited sympathy strikes setting up heavy penalties on anybody inciting a worker to break the contract of series in the essential industries.⁷⁴ Similarly, the Act also stipulated the procedure to be followed before a dispute was declared and when a union was allowed to resort to strike action. From the Act, the strike was considered illegal unless a written notice was made to the minister of Labour, and until the elapse of 21 days since the date on which the dispute was reported and the period of notice specified in the recognition or registered collective agreement relevant to the union in dispute had expired.⁷⁵ However, despite these tedious procedures, the minister had the prerogatory to declare the strike illegal. In case of a stalemate, the Act empowered the Minister to appoint a conciliator, refer the case back to the parties, or reject the dispute completely.⁷⁶

Furthermore, in 1971 the government amended the Trade Dispute Act to empower the Minister for Finance to issue from time to time wage guidelines to the industrial court depending on the state of the economy.⁷⁷ The guidelines were meant to ensure that wage increases given through collective bargaining would not undermine the economy. This again worked against the workers as the state would always cite poor state of the economy to downplay the workers' demands.⁷⁸

⁷³ Ibid

⁷⁴ Ibid, p.66

⁷⁵ *Republic of Kenya*, Trade Dispute Act, Cap 234

⁷⁶ Aluchio, *Trade Unions in Kenya*, p.77

⁷⁷ Ibid

⁷⁸ Ibid

The key feature of the Trade Disputes Act is that it led to the establishment of the Kenya Industrial Court in 1964. Besides, the Act provided for the settlement of trade disputes, the establishment of arbitration tribunals and boards of inquiry in relation to disputes. This court was presided over by a Judge of the High Court bench appointed by the president.⁷⁹ The court's mandates were to receive and settle disputes unresolved by the voluntary negotiating machinery. However, dispute resolutions in this court demanded a union with financial muscle. And unions by then were feeble financially and hence could not match the financial well-being of powerful employers as well as the government. Therefore seldom could trade unions succeed via the judicial processes.⁸⁰ The court also lacked the ability to effectively enforce its rulings as there were no clearly spelt out implementation mechanisms. Awards were left to the parties to implement and this lagged for a long period. For example, in 1996 COTU voiced its concern that some disputes even though ruled by the court in 1979 remained unimplemented.⁸¹ In addition, the decision of the Industrial Court was termed final and many unionists feared appealing against the court as it was tantamount to renegeing on the spirit of the creation of the court.

It is worth noting that the industrial Relations system and its subsequent rules and procedures geared towards minimizing workers' freedom especially on the use of strike as a last weapon.⁸² Even when the procedures had been followed, the Minister for Labour would still declare a strike illegal. Thus, union representatives were always skeptical and concerned about receiving an independent hearing before the court. The protective labour laws had a tendency of favouring employers, especially given that there were a lot of resources at their disposal.⁸³

The market mechanism was also used. As observed earlier, this strategy tries to weaken unions as bargaining agents where collective bargaining is decentralized completely. Though some instances falling under this strategy have been captured in the above discussion, the centralization of trade unions under the umbrella union, COTU, was a clear move to weaken

⁷⁹ Cockar R. Saeed, "The Industrial Court", (eds), in Cockar Saeed and Patricia Mbote, et al, *The Industrial Court: A Course Book for Trade Unionists*, Friedrich Ebert Foundation, 1993, p.321

⁸⁰ Gona, "Workers and the Struggle for Democracy in Kenya", p. 68

⁸¹ Aluchio, *Trade Unions in Kenya*, p.77

⁸² W.E.M. Waweru, *Management of Human Resources in Kenya*, Kenya Literature Bureau, Nairobi, 1984, p.163

⁸³ Ibid

unions. The government capitalized on the chain of wrangles in the labour movement to exert its hegemony. In 1965, the ministerial committee recommended the formation of COTU paving way for state meddling and final co-optation. After its formation, extensive powers of control were vested in the minister of Labour and the COTU Secretary General.⁸⁴ For maximum state control other recommendations followed. For example;

- i. Fresh elections, under government supervision were to be held for all trade unions.
- ii. Cancellation of all trade union movement affiliation with external bodies.
- iii. The COTU constitution to be drafted by the Attorney General's office.
- iv. The conduct of the COTU Secretary General to be subject to investigation and that he would be liable to suspension from the office of the president.⁸⁵

From the above recommendations, the state assumed immeasurable powers of control over COTU affairs. And the fact that the General Secretary was to be appointed and paid by the government, translated into creation of a government "stooge" in the union. Moreover, the recommendations gave the office of the Attorney General the mandate of drafting COTU's constitution, thus creating more possibility of generating a state beholden constitution.

The unionists and some politicians expressed their dissatisfaction as far as the creation of COTU was concerned. And the fact that President Kenyatta never sought public approval concerning the recommendations that gave birth to COTU raised more eye-brows. The government's anticipated to create an entirely centralized labour movement and even disconnect it with external sympathizers particularly ICFTU that provided a huge chunk of the union funding.⁸⁶ As it turned out, the government had "the last laugh". COTU assumed a passive stance to matters of collective bargaining leaving individual unions to shoulder their own burden. It took the role of an advisor to unions of "liturgical" negotiation process for better wages and working condition. It was reduced into a lobby group.⁸⁷ Since then, trade union freedom was curtailed in Kenya. It is in this light that critics have concluded that

⁸⁴ Stephen H. Goodman, "Trade unions and Political Parties: The case of East Africa", *Economic Development and Cultural Change*, vol.17, No.3, April 1969, p.342

⁸⁵ *Republic of Kenya*, The Policy of Trade Union Organization in Kenya, 1965, pp.4-5

⁸⁶ Ibid

⁸⁷ Ibid

COTU's coming into being was a well choreographed move by KANU to co-opt organizations that would have been considered ant-establishment.⁸⁸

2.3.2.2. The State-Civil Society Relations in the Moi era (1978-2002)

In 1978, Jomo Kenyatta died and Daniel Moi succeeded him as the president. The accession of Moi to power did not anchor well with the former president's loyalists. Moi had only an advantage of having served as Kenyatta's vice president. The early 1980s was characterized by political and economic upheavals. In June 1982, a constitutional amendment was passed in parliament turning Kenya into a *de jure* one-party state. More political developments followed culminating in the August 1982 coup attempt. The August 1, 1982 coup attempt is believed to have been orchestrated and executed by some junior Air Force personnel together with individuals perceived to be dissidents. The cause of the coup has been associated with cases of low morale in a section of the Air Force officers, rampant tribalism, corruption and nepotism.⁸⁹ The coup was characterized by the take over of Embakasi, Eastleigh and Nanyuki airbases, then seized Jomo Kenyatta International Airport, the post office, the Central Bank of Kenya and the Voice of Kenya, the state owned TV and radio broadcaster. Many University of Nairobi students openly supported the coup despite most civilians being hesitant. The coup which was led by Hezekiah Ochuka and his accomplice Pancras Oteyo Okumu was however, poorly executed and therefore was easily crushed by the army forces loyal to president Moi. Both Ochuka and Okumu were hanged after the trial and conviction by court martial.⁹⁰

This coup attempt framed the trajectory of Kenya's subsequent history. Moi took all possible measures to entrench his regime, in the process coalescing Kenya into a fully autocratic state. Many acts of brutalization and abuse of power epitomized the regime. They included, the practice of detention without trial for dissidents, gagging of the media, restriction of open criticism of the KANU policies, co-optation and muzzling of the civil society.⁹¹ Moi's

⁸⁸ Ibid

⁸⁹ Charles Horsby, *How attempted takeover of Moi Government by rebels flopped*, May 20, 2012, www.standardmedia.co.ke/mobile/article/200058479/how-attempted-takeover-of-moi-government-by-rebels-flopped?pageNo=2, Accessed on 14th November, 2016.

⁹⁰ Ibid

⁹¹ J.J. Okumu and F. Holmquist, "Party and Party state relations", in Barkan, J.D, (ed), *Politics and Public Policy in Kenya and Tanzania*, New York, Praeger Publishers, 1984,p. 65

crackdown on what he termed as ‘dissidents’ left civil society organizations silenced, with Maendeleo Ya Wanawake being co-opted into the Moi- KANU leadership matrix. Gona cites Moi’s onslaught against mass media as a crucial part of his power consolidation obsession. The media was severely attacked and intimidated by the government machineries thus, hampering authentic reporting. Attention was given to KANU public rallies, presidential functions, and party propaganda.⁹²The desire to streamline the economy and consolidate power were the drivers behind the adoption of state corporatism by Moi and his administration. Economically, he asked trade unions to maintain industrial peace and stability as a means of ensuring continued economic progress. On the other hand, the political crisis (the 1982 coup attempt) that characterized his regime in the early take over, also justify the policy of co-optation.

Moi’s KANU Corporatist Strategies

Just like the Kenyatta regime, the Moi era combined the two Valenzuela’s corporatist strategies to stifle the labour movement and other civil society organizations. Among the strategies employed were legislations, interference with union elections to influence those elected, sponsoring of splinter organization, and the use of propaganda to defame active civil society groups.

Legislations and Moi’s Onslaught on Civil Society

Moi’s government enacted several legislations to limit the channels of expression by trade unions to maintain industrial peace for economic productivity. In 1980, Moi masterminded the revision of the 1962 Industrial Charter. The revision of the document meant that the government, workers and employers affirmed on the need to observe the initial Charter signed.⁹³Labour disturbances in form of strikes were restricted as employers and unions opted for negotiations. Moi also upheld the 1974 presidential decree, which had banned strikes. This ensured that no trade union was to stage demos on matters of wage

⁹² Gona, “Workers and the Struggle for Democracy in Kenya”, p.145

⁹³ Gona, “Workers and the Struggle for Democracy in Kenya”, p.107

increment. Unions were to engage the government through negotiations but the government was to issue wage guidelines.⁹⁴

Legislation was also characterized by the proscription of organizations. Indeed, the period of the 1980s witnessed rampant deregistration of organizations by the Moi government. For example, in July 1980, president Moi ordered the de-registration of Kenya's largest trade union, the Union of Kenya Civil Servants (UKCS) together with the University of Nairobi's the University Staff Union (USU).⁹⁵ Issuing the statement, Moi said the two trade unions represented workers whom the government was taking good care of. He also castigated the two unions for what he termed, over-indulgence in politics.⁹⁶ According to the *Weekly Review*, UKCS was deregistered because it was colluding with Kimani wa Nyoike, the former Secretary General, to undermining the government.⁹⁷ On his part, Gona cites power that UKCS leadership wielded and the challenge it posed to the government as the cause of its proscription. He also observes the critical stand adopted by USU over various issues involving the government such as the question of expatriates in Kenya and employment of former detainees, to have contributed to its deregistration on 16th July, 1980.⁹⁸

Moi government's legislative mechanisms of control never stopped with the labour movement alone. Ethnic welfare organizations and other civil society bodies became other casualties. For example, in August 1980, the tribal organizations, the Akamba Union, the Luhya Union, the Luo Union, and the Gikuyu Embu Meru Association (GEMA) were banned following a parliamentary legislation.⁹⁹ Betwell Ogot argues that GEMA was the target as the organization of mainly the Kikuyu nationality had accumulated resources and posed danger to Moi and his regime.¹⁰⁰ Organizations such as the Nairobi University Students Organization (NUSO) and the Matatu Vehicle Owners Association (MVOA) were

⁹⁴ Ibid

⁹⁵ *Weekly Review*, July 25, 1980

⁹⁶ Ibid

⁹⁷ Ibid

⁹⁸ Gona, "Workers and the Struggle for Democracy in Kenya", p.158

⁹⁹ J.D. Barkan, "The Rise and fall of a governance realm in Kenya", in G. Hyden and M. Bratton, (eds), *Governance and Politics in Africa*, Boulder, Lynne Rienner Publishers, 1992, p.185

¹⁰⁰ B.A. Ogot, "The politics of populism", in B.A. Ogot and W. R. Ochieng, (eds), *Decolonization and Independence in Kenya, 1940-1993*, London, James Currey Ltd, 1995a, p.196

also deregistered for alleged radicalism and being harsh critics of the Moi regime's policies.¹⁰¹

On the other hand, the National Council of Churches of Kenya (NCCCK), though was not deregistered, the organization was threatened in many occasions of such a measure. This followed NCCCK's allegations that the government engineered the 1991-92 tribal clashes in some parts of the country. Through their News magazine and church summons, they openly stated the diabolic nature of the government. Thus Moi reacted by threatening NCCCK of its imminent deregistration.¹⁰²

Moreover, in the early 1990s, the Moi government faced a lot of criticisms from international community due to human rights violations. NGOs and donors shifted funding patterns, something that did not go down well with the government. Thus, in 1990 the government even closed the Norwegian embassy in a move to restrict Norwegian Agency for International Development (NORAD) that sponsored many NGOs in Kenya. The parliament also passed the NGO Act to maim these organizations. The Act empowered the state to monitor the registration and activities of civil society in the country. All NGOs were to register afresh and the Minister for Internal Security had powers to refuse registration of any NGOs on account of misconduct by its chief officers.¹⁰³ The government was viewing the shifts of funding patterns by donors in political rather than economic terms, hence needed to curb the NGO activities.¹⁰⁴

Emasculation by Removal of Leaders

Moi and his regime also attempted to co-opt civil society via the removal of anti-establishment leaders. This was a salient feature of the Market mechanism strategy of labour control. It was meant to weaken the ability of the unions in bargaining agreements by ensuring that compromised leaders were to lead the unions. The vibrancy of any civil society organization is to a larger extent determined by ideologies its leadership subscribes to.

¹⁰¹ S. Ndegwa, *The two faces of civil society: NGOs and politics in Africa*, Connecticut, Kumarian Press, 1996, p.27

¹⁰² Herv'e Maupeu, "Religion and the Elections", in Herve Maupeu, et al, (eds), *The Moi Succession: The 2002 Elections in Kenya*, Nairobi, Transafrica press, 2005, pp.39-40

¹⁰³ *Weekly Review*, June 19, 1992

¹⁰⁴ *Ibid*

According to Valenzuela, Labour leaders should be more successful in challenging the authoritarian regime's labour relations system to permit effective plant and national level voices in favour of workers' interests.¹⁰⁵

Moi and his KANU regime also exploited this avenue to ensure the subjugation of civil society organization. Salient examples are those involving the Friedrich Neumann Foundation (FNF), and the Law Society of Kenya (LSK). According to Matanga, FNF, a German organization saw its director Dorothee von Brentano expelled by the Moi Government in July 1994 for allegedly involving herself in subversive activities including supporting the opposition. The Director had to relocate to Dar-es salaam where she allegedly continued providing financial support to the opposition and the clerics.¹⁰⁶

Similarly, the Moi government allegedly staged a boardroom battle that was aimed at ousting the Law Society of Kenya (LSK) chairperson Paul Muite. With Muite's election at the helm of LSK, the body became a major critic of the government.¹⁰⁷ Thus, Moi is believed to have masterminded a move which was meant to hound him out of office in favour of pro-establishment leadership. The government is claimed to have used its sympathetic lawyers within the LSK, to file contempt charges against Muite. As reported by the *Nairobi Law Monthly*, the government tried to give the impression that it had no interest in the LSK rifts, but behind the scenes, it wanted Muite out.¹⁰⁸

Moi's interference in the COTU elections following the demise of Juma Boy, highlighted the greatest manifestation of state control of civil society through leadership manipulations. Indeed as Aluchio observes, the KANU government had a final say in the 'selection' of the COTU top officials, that is, it declared who was to be the Chairman, Secretary General and the Treasurer among the names forwarded to it after COTU elections.¹⁰⁹ Gona vividly documents Moi and the election of Joseph Mugalla in the 1986 election, an election that was too shambolic and unwarranted. According to Gona, the government played a pivotal role to ensure that Joseph Mugalla won. Through canvassing for the nomination of delegates and

¹⁰⁵ Valenzuela, "Labour Movement in Transition to Democracy", p. 452

¹⁰⁶ Matanga, "Civil Society and Politics in Africa: The case of Kenya", p.30

¹⁰⁷ Maupeu, "Religion and the Elections", in Herve Maupeu, et al, (eds), *The Moi Succession: The 2002 Elections in Kenya*, p.38

¹⁰⁸ *Nairobi Law Monthly*, October 1991

¹⁰⁹ Aluchio, *Trade Unions in Kenya*, pp.148-149

bribing them, Moi endeavoured to have the deputy Secretary General of the Kenya Union of Commercial, Food and Allied Workers (KUCFAW), elected over Justus Mulei, the Secretary General of the Engineering Workers Union, who lacked government favour.¹¹⁰ The national office bearers were excluded from attending the delegates' nominations because they opposed Mugalla. Similarly, prior to the December elections in Kisumu at the Tom Mboya Labour College, Gona notes that delegates were camped at Kapturgat in Eldoret. They were fed, put up in luxurious accommodation, bribed and also instructed on how to vote 'correctly'. They were also vetted at roadblocks leading to Kapturgat to ensure there was no anomaly.¹¹¹

It was in this irregular exercise that Joseph Mugalla won the powerful and highly coveted COTU Secretary General's portfolio. After the election of Mugalla, Moi swiftly manipulated the union such that by 1989, COTU was only structurally and financially independent but policy-wise, it was purely KANU and Moi. Gona opines that though COTU could have escaped the formal affiliation, it however remained a KANU vessel. The union was expected to follow KANU's policies and propagate the same to workers, despite being denied the role in KANU activities.¹¹²

Maendeleo ya Wanawake (Women in Development) that initially functioned as an independent body assisting women, faced financial mismanagement and collapsed in the 1980s. Moi again took advantage of the organization's financial quagmire to intervene. Although he rescued it, Moi went ahead to co-opt it into KANU. From then (1989), the organization could not agitate, mobilize or generate ideas for itself or criticize the regime.¹¹³

It has also been alleged that in 1986, Moi attempted to manipulate KNUT Secretary General Ambrose Adongo by appointing him in the Presidential Working Party on Education and Manpower Training. The commission was chaired by Peter Kamunge. Other members were

¹¹⁰ Gona, "Workers and the Struggle for Democracy in Kenya", p.179

¹¹¹ *Ibid*, p.183

¹¹² *Ibid*, p.186

¹¹³ *Ibid*, p.184

Philip Mbithi, Bethwel Ogot and Benjamin Kipkorir. Though he worked in the commission, Adongo distanced himself from any form of state manipulation.¹¹⁴

Reconstitution of Bodies by the State and /or Creation of Splinter Organizations

As another form of Market Mechanism, this strategy entailed the reconstruction of the existing civil society organizations into new bodies that were feeble and vulnerable to any form of manipulation by the state.¹¹⁵ It also involved the creation of splinter organizations within one vibrant body deliberately to dilute the influence and efficacy of the ‘mother’ organization paving way for elaborate state control. Barkan contends that the reorganization of the Kenya Farmers Association (KFA) into the Kenya Grain Growers Co-operative Union (KGGCU) in 1983, was part of the government’s containment strategy. In his view, the intention of the Moi regime was to minimize the power and influence of powerful Kikuyu landowners in the organization.¹¹⁶ The reorganization involved the sacking of experienced staff for what was seen as ethnic politics. Similarly, the Kenya Tea Development Authority (KTDA) was heavily affected by the state’s attempts to reorganize it through the establishment of the Nyayo Tea zone in Western Kenya. Tribal politics and appointment of inexperienced staff left the organization under state control.¹¹⁷

It has also been alleged that the formation of the Kenya Union of Post Primary Teachers Education (KUPPET) in 1998 had some state input. It is said that the government masterminded a rift between the Primary and Secondary School teachers within KNUT so as to weaken KNUT which was always a thorn in the government flesh.¹¹⁸ However, the officials of KUPPET have argued that KNUT used to be dominated by primary school teachers thus disproportionately representing the post primary teachers. At the same time, key positions of KNUT leadership were always occupied by officials from the primary sections due to the ‘tyranny of numbers’ at their disposal as voters.¹¹⁹ Indeed as early as 1994, it emerged that the government was inciting secondary school teachers to break away

¹¹⁴ Hillary Ngweno, “Ambrose Adongo”, *Kenya Heritage, Makers of A Nation*, (CD-ROM), Kenya History and Biographies Ltd, 2007

¹¹⁵ Matanga, “Civil Society and Politics in Africa: The case of Kenya”, p.31

¹¹⁶ Barkan, “The Rise and fall of a governance realm in Kenya”, p.187

¹¹⁷ Ibid

¹¹⁸ Interview, John Obala, Executive Officer, KNUT Headquarters, Nairobi, April 4, 2015

¹¹⁹ Interview, Omboka Milemba, KUPPET National Chairman, May 23, 2015

from KNUT in order to cripple it. An opposition member, the Sirisia MP, John Munyasia remarked, “The government is bent on dividing teachers. It is not UASU, but highly placed government officials who are encouraging division in KNUT”.¹²⁰ These sentiments concurred with those of the KNUT officials interviewed. According to KNUT Busia County Executive Secretary, the Moi administration capitalized on the internal dissention within KNUT to help KUPPET be established so as to counter KNUT’s strength. Since then the two unions adopted parallel approaches while dealing with the government, with KUPPET taking a less critical stance against the government.¹²¹

Employment of State Propaganda

For many occasions the Moi administration also attempted to weaken and control its critics amongst the civil society groups through the art of propaganda.¹²² This was meant to tarnish the reputation and standing of these organizations in the eyes of its members and the public. Accusations such as being ‘stooges’ of the foreigners and therefore serving the aliens were commonly raised by the regime. The government, for example attacked protestant churches that were critical to the state abuse of power as having been engineered by the foreigners to unsettle the government.¹²³ The KNUT Secretary General Ambrose Adongo also became a casualty. In 1990 at the wake of the multi-party crusade, the labour minister Oloo Aringo claimed that the foreign forces were collaborating with Adongo and other high ranking KNUT officials to incite teachers over the implementation of the new scheme of service and cripple the 8.4.4 system.¹²⁴ Similarly, in 1998 during the teachers’ strike, the government through the TSC and the Ministry of Education published inflated figures allegedly showing the amount required to settle the teachers’ claims. According to Kamau, this was designed to build a negative picture of teachers to the rest of the country by falsely claiming that it would take 50% of the entire national budget to address their grievances. The government wanted to diverge public anger against the teachers by alleging that taxes will go up.

¹²⁰ *Daily Nation*, July 14, 1994

¹²¹ Interview, Mark Oseno, Busia branch, Executive Secretary, March 3, 2015

¹²² Interview, Omboka Milemba, KUPPET National Chairman, May 23, 2015

¹²³ G. Sabar-Friedman, “Church and state in Kenya, 1986-1992: The churches Involvement in the Game of Change” *African Affairs*, vol.96, 1997, p.31

¹²⁴ *Daily Nation*, September 29, 1990

In addition, following the election of Paul Muite as the chairman of the LSK and his critical stance on Moi's policies, he was branded a foreign stooge. In fact, the same derogatory description had been cast upon the former LSK chairman, G.B.M. Kariuki who after criticizing the Moi regime for removing the security of tenure of Judges and the Attorney General, was accused by a senior government minister of not only being loyal to foreigners but also being ignorant of history.¹²⁵ Therefore, the perfected art of propaganda remained a vibrant Moi-KANU corporatist strategy which aimed at tarnishing the reputation of trade unions and civil society organizations, consequently, rendering them unpopular and easy to control.

2.4 Conclusion

This chapter concentrated on the nature of state corporatism that characterized the colonial, Kenyatta and Moi regimes. It has been established that the genesis of state co-optation in Kenya can be traced from the colonial era when the colonial legislative council framed the Acts that were meant to pacify the labour movement. It has also been demonstrated that the relationship between the government and labour movement dictated the corporatist and patronage strategies employed by KANU to silence the potential critics. The strategies employed were legislations, centralization of labour movement, emasculation or removal of leaders, sponsoring of splinter groups, as well as reorganizing of some organizations, and the use of state propaganda. While the state went on the offensive and compromised some civil society groups, others survived. The Law Society of Kenya (LSK), the National Council of Churches of Kenya (NCCK) and the Kenya National Union of Teachers (KNUT) are among those that survived. What made KNUT survive state co-optation is therefore the subject to be tackled in the next chapter (chapter 3.)

¹²⁵ *Nairobi Law Monthly*, October, 1991

CHAPTER THREE

KNUT CHALLENGES AND SUCCESSES

3.1 Introduction

The previous chapter demonstrated how the state played a paramount role in defining the direction of the voluntary sector, trade unions and even religious bodies. Through legislations, centralization of trade unions, emasculation by removal of leaders, creation of splinter organizations, and the employment of propaganda by the state, dissent voices were curtailed. The peak of this onslaught was during the tenure of Kenya's second President Daniel Arap Moi. The regime saw the demobilization of civil society organizations. Co-operative societies were controlled by the state, self-help groups were incorporated in the administrative and political structure, ensuring that their activities could be monitored by state agents. Organizations such as Maendeleo Ya Wanawake and Central Organization of Trade Unions (COTU) were co-opted into the Moi- KANU leadership.

However, there were civil society organizations that withstood the onslaught by the state. Such organizations included the Law Society of Kenya (LSK), a section of the church, and the Kenya National Union of Teachers (KNUT). This chapter discusses how KNUT survived stringent corporatist measures meted against civil society organizations by the state. It demonstrates how KNUT remained proactive and assertive not only in the Moi era but also during the non-coercive Kibaki regime.

3.2 Key KNUT Strikes up to 1997

Pelling avers that, "Never surrender the right to strike, but be careful how you use a double-edged weapon".¹²⁶ This is a clear demonstration that a strike action is a salient feature as far as union militancy is concerned.

KNUT in many occasions resorted to strike threats and real strikes to achieve its objectives particularly by bringing the government to a negotiating table. The following are key instances of KNUT strikes up to 1997.

¹²⁶Henry Pelling, *A history of British Trade Unionism*, London, The Macmillan Press Ltd, 1976, p.53

3.2.1 The First National Strike (18 September- 11 October, 1962)

This was the first national strike called by the union's first Secretary General, Stephen Kioni. It came after the success of two token strikes in Nairobi, Nyeri, Mombasa, Kilifi, Baringo, South Nyanza and North Nyanza that were between 19th and 20th March. Between 26th and 27th March, the regions under strike were, Machakos, Kiambu, Murang'a, Taita, Nakuru, Kisii and Central Nyanza.¹²⁷ These strikes were meant to test the level of preparedness for a nation-wide strike as well as assessing the response of the union members. The 1962 nationwide strike sought for house, responsibility and transport allowances on appointment and the provision of a pension scheme. KNUT also wanted the government to guarantee free medical treatment and hardship allowances for teachers posted to remote areas.¹²⁸ Kioni and his group also campaigned for a revision of the salary structure, which did not take cognizance of teachers' qualifications. The union noted that the system in place was still a real impediment because of the different levels of resources available to the various local authorities that employed teachers. The union further advocated the Africanisation of the Ministry of Education so as to increase the number of Africans in the ministry as well as formulating educational policies that suited African children.¹²⁹

According to P.L. Lubulela, the Minister for Labour, Tom Mboya was served with a notice by KNUT but took no seriousness in it because he could not believe teachers would resort to a total strike. During the strike, teachers stayed away from duty as they were advised by the union. The strike was only called off, following the intervention of the Minister for Education. Teachers achieved the following:¹³⁰

- i. KNUT was recognized as a body that unites and caters for all teachers.
- ii. The salaries of teachers were raised.
- iii. Teachers were placed on unified terms of service. Under these terms, all primary school teachers were managed by their respective District Education Boards (DEB).

¹²⁷ Peter L. Lubulela, "The KNUT in A Nutshell, 1957-1997: First 40 Years of Struggles and Frustrations", Unpublished, 2001, P.28

¹²⁸ Mbothu Kamau, Francis M. Ng'ang'a: *Battles and Triumphs, A Portrait of a Modern Trade Unionist*, Nairobi, Transafrica Press Ltd, 2009, p.61

¹²⁹ Ibid

¹³⁰ Lubulela, "The KNUT in A Nutshell, 1957-1997: First 40 Years of Struggles and Frustrations.", p.29

Each DEB was to employ and pay its teachers. All secondary and Teacher Training College teachers were placed under the Board of Governors, with each board given money to pay the salaries.

- iv. The trained teachers were granted permanent and pensionable employment.
- v. The maternity leave without pay was introduced for married women teachers.
- vi. KNUT was to be accorded a check-off system, beginning from January 1963.

The 1962 KNUT strike was just a litmus test. From there henceforth, the union made use of strike and threat of strikes to force the government to give in to its demands.

3.2.2 The Second National Strike (October 11- 13, 1965)

After realizing the above achievements, the union called for the establishment of a legally constituted and competent single employer for all teachers. Up to 1965, teachers were employed partly by the Ministry of Education and partly by the local authorities. In fact the union realized that some teachers went without salaries for months as their local authorities had failed to raise requisite revenue.¹³¹ The government, again was reluctant to address the union's demands. This culminated in a 3-days teachers' strike beginning from October 11, 1965. The strike prompted the government to appoint a board of inquiry headed by Sam Waruhiu, to look into the teachers' grievances. The members were Rev. Andrew Hake of NCKK, Nyamol Okal, a former teacher, and Mr. Kidusu of the Ministry of Labour as the secretary.¹³² The board recommended the formation of the Teachers Service Commission through an Act of Parliament. The report however, was shelved by the government. The point of contention was Kioni who was accused of leaking the committee's recommendations to the KNUT branches. This forced the union to call for a third strike in 1966.¹³³

3.2.3 The Third National Strike

The refusal by the government to publish the recommendations by the Board of Inquiry escalated into an industrial action. The KNUT National Executive Council convened the

¹³¹Kamau, *Francis M. Ng'ang'a: Battles and Triumphs, A Portrait of a Modern Trade Unionist*, p.61

¹³² Lubulela, "The KNUT in A Nutshell, 1957-1997: First 40 Years of Struggles and Frustrations", p.32

¹³³ Ibid, pp. 32-34

Advisory Council at Solidarity building on October 29th, 1966 to deliberate over the strike option.¹³⁴ On the same day, the union's Steering Committee met the Permanent Secretary of the Ministry of Education, James Njoroge to discuss on whether the recommendations would be adopted. The meeting however, ended in a stalemate. In fact the Permanent Secretary challenged the union to call for the strike if they wanted. The union therefore endorsed the strike action which began on November 1st, 1966. Though the government promptly declared the strike illegal, teachers resolved to press on. The strike paralyzed learning in schools leading to a government crackdown that saw senior KNUT officials arrested. This action, however, did not succeed in taming union officials. KNUT even fired its president, Job Rob, for attempting to call off the strike unilaterally through national media.¹³⁵ To end the stalemate, the government drafted a Bill which was tabled in parliament, debated and passed as chapter 212 of the laws of Kenya, officially establishing the TSC to provide the teachers with one employer irrespective of their level of teaching (primary, secondary or teacher training).¹³⁶

After the launch of the TSC under Cap 212, a Teachers Service Remuneration Committee (TSRC) was established. The committee recommended to the then Minister for Education J. G. Kiano new teachers' salary. The minister refused to gazette the recommendations citing lack of funds from the government. From November 5, 1969, a bitter Kioni called for a fourth KNUT national strike demanding for the implementation of the Teacher's Service Remuneration Committee (TSRC) recommendations about a new pay scheme for teachers of all grades. Teachers finally won as the industrial court ruled in their favour.¹³⁷

3.2.4 Strike Threats during Ambrose Adongo's KNUT Era

The fall of Kioni from the powerful KNUT Secretary General position came in 1970 after he was convicted and jailed for allegedly stealing a cheque of Ksh. 500.¹³⁸ This paved way for the election of Ambrose Adeya Adongo during the 1970 KNUT elections held at Diamond Jubilee Hall in Mombasa. He defeated Emmanuel Nyoka and Zakaria Muchene in a closely

¹³⁴ Ibid, p.34

¹³⁵ Kamau, *Francis M. Ng'ang'a: Battles and Triumphs, A Portrait of a Modern Trade Unionist*, pp.62-63

¹³⁶ Ibid

¹³⁷ Ibid

¹³⁸ Interview, Fred Sichangi KNUT Bungoma branch Executive Secretary, 4th May, 2015

contested election, and took up office in January 1971.¹³⁹ Adongo's journey to the helm of KNUT leadership was full of intrigues mainly emanating from his predecessor's loyal supporters. As Ng'weno puts it, after Kioni's release from prison in 1971, his supporters successfully petitioned President Kenyatta to exempt him from a constitutional clause that barred Kenyans convicted of criminal offence from contesting public office. President Kenyatta gave in to their request paving way for Kioni to challenge Adongo as the Secretary General in the 1971 KNUT elections held at Tom Mboya Labour College in Kisumu.¹⁴⁰ Kioni's move was unsuccessful because the damages caused by the criminal offence were beyond repair. Adongo won the elections with a convincing majority despite Kioni's serious campaign by his Mt. Kenya lieutenants. After assuming office, Adongo declared his commitment to playing a leading role in articulating teachers' interests. He welcomed the dissociation of KNUT from COTU, an umbrella workers union formed in 1965, terming it a good opportunity to strengthen KNUT to effectively represent teachers.¹⁴¹

Adongo's leadership during the Kenyatta era was non-controversial despite the rising tide against trade unionism in Kenya. As Sandbrook opines, the Kenyatta government operated on the principle that allowed trade unions to participate in government programmes and as such unions were less likely to regard themselves as having distinctive interests conflicting with the state.¹⁴² Adongo and KNUT opted to draw the line on government policies by not openly criticizing the regime. Nor did he mobilize teachers into downing their tools as was common with his predecessor. However, during president Moi's tenure, the KNUT leader became assertive turning himself into a major critic of the government on education matters. Repression and oppression meted against civil society organizations did not deter the union from taking on the government on education matters.¹⁴³ The following are instances in which KNUT threatened to call teachers on strike or actually used strikes as mechanisms for achieving their goals during Adongo's tenure.

In April 1988, KNUT threatened to lead teachers down their tools when the Ministry of Education and the Teachers Services Commission (TSC) delayed to disburse teachers' Co-

¹³⁹ Kamau, *Francis M. Ng'ang'a: Battles and Triumphs, A Portrait of a Modern Trade Unionist*, p.63

¹⁴⁰ Ng'weno, "Ambrose Adongo" CD-ROM 2007

¹⁴¹ *Weekly Review*, April 12, 1976

¹⁴² Sandbrook, "Politics in Emergent Trade Unions: Kenya, 1952-1970" p.62

¹⁴³ Ng'weno, "Ambrose Adongo", 2007, CD-ROM

operative dues to the Mwalimu Co-operative Society. The union's Steering Committee through their Secretary General, gave the TSC a 14- day ultimatum to remit over Shs.80 million, or they call a strike.¹⁴⁴ The strike was abandoned as the TSC promptly responded with an assurance that the money would be remitted. Adongo and the teachers were not satisfied and they issued a further threat to stop teaching if the money was not paid in within a week's time. He threatened to mobilize members all over the country and travel to Nairobi to physically demand the money from the TSC- headquarters. The situation was only saved when the TSC actually remitted the money in the same week.¹⁴⁵

Two weeks later, KNUT came up with another threat of industrial action. The union demanded that the government release the new scheme of service for graduate teachers which it had been working on for some time.¹⁴⁶ Like the previous Co-operative money dispute, Adongo gave a 14-day ultimatum to the Ministry of Education to release the new scheme of Service or teachers would proceed with an industrial action. As it turned out, Adongo was rebuked by Moi who expressed surprise at the fact that teachers were issuing threats over an issue in which he had personally taken the initiative. To Moi, the scheme was a presidential prerogative and it was upon him and not teachers to announce its implementation.¹⁴⁷ The infuriated Moi further withdrew the new scheme on September 26 and demanded an apology from the KNUT leadership. To foster a political goodwill, the union backpedaled over the strike issue and gave a written apology to Moi, who not only dismissed Adongo's apology but also termed him the *mkora* (cunning).¹⁴⁸ However on October 9, in a press conference, the KNUT Secretariat apologized further to Moi. Adongo said, "We in KNUT apologize to President Moi very humbly for having given notice of a teachers' strike before seeking his advice."¹⁴⁹ He also reiterated the union's total loyalty to Moi and KANU. It was after this apology that Moi ordered the implementation of the new scheme.

¹⁴⁴ *Weekly Review*, May 20, 1988. See also Ng'weno, "Ambrose Adongo", CD-ROM

¹⁴⁵ *Ibid*

¹⁴⁶ *Weekly Review*, September 9, 1988

¹⁴⁷ *Ibid*

¹⁴⁸ *Daily Nation*, October 9, 1988

¹⁴⁹ *Daily Nation*, October 10, 1988

In early September 1988, Adongo and the KNUT Secretariat once again took on the Ministry of Education over what was described as an arbitrary decision to slash house allowance paid to primary school teachers.¹⁵⁰ The alarmed Adongo supported by the union members threatened to mobilize the over 159,000 teachers to go on unprecedented industrial action and paralyze teaching if the Ministry of Education and TSC did not reinstate the original allowance. However, in a dramatic turn of events Moi ordered for the reinstatement of the full allowance, sealing the victory for Adongo and KNUT.¹⁵¹

Another fierce showdown between the Ministry of Education and the KNUT was in October 1989. This was due to an apparent anomaly committed following the headcount of teachers in an operation to eliminate “ghost” teachers. The exercise saw hundreds of genuine teachers affected.¹⁵² This prompted the union to issue a strike warning, accusing the Minister for Education and his officers of releasing the results before counter checking the findings. The KNUT Secretary General termed the results misleading and challenged the Education Minister, Aloo Aringo to identify the actual ‘ghost’ teachers and spare genuine teachers the embarrassment of delayed pay. In a quick response, the Minister accepted of some inaccuracy in the headcount and apologized to the affected teachers while assuring them of their pay.¹⁵³

The clamour for multiparty and the subsequent realization of the opposition in the 1990s was a boost to Adongo and KNUT in troubling the government through strike threats and actual strikes. Moi trying to be careful not to alienate teachers from his camp, bowed to most of KNUT’s demands. This was despite KNUT’s conspicuous absence in the re-democratization crusade. In June 1992, the union issued another strike threat, this time protesting the government’s failure to employ 9,500 trained teachers, as well as government’s stance to take action against teachers serving in clash-hit areas who were yet to return to work.¹⁵⁴ The strike was however ‘postponed’ at the last hour, after the government agreed to see to the employment of the 9,500 teachers. The Ministry also accepted not to penalize any teacher

¹⁵⁰ *Weekly Review*, September 9, 1988

¹⁵¹ *Ibid*

¹⁵² *Weekly Review*, November, 10, 1989

¹⁵³ *Ibid*

¹⁵⁴ *Weekly Review*, June 19, 1997

who had not returned to the areas affected by the 1992 tribal clashes.¹⁵⁵ A visibly triumphant Adongo and KNUT once more prevailed over the state. All these instances and others discussed in chapter four demonstrate a profound determination by KNUT to represent its members despite the onslaught from the state. Why then did KNUT survive state onslaught?

3.3 Determinants to the survival of KNUT from State Co-optation

3.3.1 Union Organization

Among the determinants to KNUT's escape from state co-optation is its structural organization. The union was (and is) made up of several organs that developed and executed its programmes. These organs were outlined in the union's constitution. They emanated from grassroots (schools) to the national level. Their composition and functions as discussed below were great impetus to the survival of the KNUT from state onslaught.

3.3.1.1 The Annual Delegates Conference (ADC)

Article VII of the KNUT constitution provided for the creation of the union's Annual Delegates Conference (ADC), which was the supreme authority of the union and its decisions were final and binding on all the members of the union.¹⁵⁶ It was and still is the parliament of the union through which the union made important decisions touching on all the branches. The ADC's members were all the elected national officials, all members of the National Executive Council (NEC) and delegates elected by the Branch General Meeting from all the branches. During the ADC, the KNUT Secretary General presented a NEC report. The ADC would then determine the extent to which the NEC achieved the policy and operational targets.¹⁵⁷ The election of the ADC members took place every 5 years. How and why this arrangement helped KNUT ward of corporatism will be discussed later in this chapter.

3.3.1.2 The National Executive Council (NEC)

This council executed the policies or resolutions passed and agreed upon by the ADC. Article IX of the KNUT Constitution provided for the position of the NEC that comprised of the National Chairman, the First vice National Chairman, the Second Vice National Chairman, the Secretary General, the National Treasurer, the Vice National Treasurer and two National

¹⁵⁵ Ibid

¹⁵⁶ *The KNUT Constitution*, revised on 8th December, 2010, p.11

¹⁵⁷ Ibid

Women Representatives.¹⁵⁸ The NEC was an integral organ through which the business and basic important functions of the union were carried out. These included the execution of ADC policies and resolutions, the supervision of union administrative machineries at the national level and branch levels, the enforcement of regulations and rules of the union, the accession and disbursement of the funds of the union, the publication of the union's organ *The Kenya Teacher*, the establishment of the union projects and hiring of union officers.¹⁵⁹ It is therefore clear that NEC only executed what the ADC had approved.

3.3.1.3 The Advisory Council

This body was provided for under Article VIII of the KNUT Constitution. It comprised of the members of the NEC and the Chairman, Executive Secretary, the Treasurer and a women representative from each of the branches of the union.¹⁶⁰ Its mandate was to advise the NEC on important issues in the absence or when the ADC had not been convened. This meant the NEC would not make decisions unilaterally in the absence of ADC which only met once annually. For example if a dispute arose and members were to take industrial action, it would be too cumbersome for special conferences to be organized within a short period possible. The Advisory Council would then convene to advice on the matter. Its advice would then have the force of an ADC backing and consequently that of the members.¹⁶¹

3.3.1.4 Branches of the Union

Articles IX of the KNUT Constitution provided for the position of the union branches. It says, "The union shall consist of branches organized as far as possible on district basis..."¹⁶² Each branch was to elect its own officials among them, a Chairman, Vice Chairman, Executive Secretary, and Assistant Executive Secretary, the Treasurer, Assistant Treasurer and any other members not exceeding 16 elected by the Branch General Meeting. The KNUT branches were and are still linked to schools and institutions by a school representative. He/she was the accredited officer of the union at that level.¹⁶³

¹⁵⁸ Ibid, p.13

¹⁵⁹ The KNUT Study Circle Material, *A manual for the KNUT Training Programme*, Nairobi, Jomo Kenyatta Foundation, 1990, p.15

¹⁶⁰ *KNUT Constitution*, Revised in December, 2010, p.11

¹⁶¹ Interview, John Obala, Executive Officer, KNUT Headquarters, 20th April, 2015

¹⁶² *KNUT Constitution*, Revised in 2007, p.14

¹⁶³ Ibid

The union also established the Provincial Councils to deal with education and union matters relevant to a particular province. The composition in each province consisted of the Chairman, Executive Secretaries and Treasurers of all the branches in the province. The branch representatives on District Education Board and the members of NEC from the province also sat on the council and took part in voting processes.¹⁶⁴

The union organization contributed greatly to KNUT's escape from state co-optation. To begin with the union organization from grassroots to national level ensured a clear flow of information. The school representatives always collected the views from the union members at school level, channeled the same to the branch executive committee, which in turn channeled them to the Provincial and the National Executive Councils.¹⁶⁵ The reverse also happened in which information was guaranteed to reach the grassroots. Feather opines that a trade union leader is responsible first and foremost to the members. According to him, a leader must carry out the policies which members decide at their conferences, or through whatever procedure policy is decided.¹⁶⁶ Feather's opinion became a source of strength to KNUT. According to KNUT leadership, their administrative arrangement enhanced the participation of its members in decision making processes and strengthened the confidence of the members towards the union and its activities, including battling with the state on important union demands.¹⁶⁷

Similarly being the supreme organ of the union, the ADC directed NEC's mandates. As observed earlier, ADC acted as the union's parliament and as such neither the secretary general nor NEC had powers to make the decisions without the consent of ADC or the Advisory Council. This provision ensured that at no moment could the union pursue an agenda without thorough brainstorming. It also sealed any loopholes to the creation of cultic leadership as was the case with the secretary general of COTU, who could virtually make decisions unilaterally because he enjoyed the government support.¹⁶⁸ The pressure from ADC and the Advisory Council in the KNUT structure was integral in maintaining the position decided by the union. Ambrose Adongo for instance, while facing Moi's wrath

¹⁶⁴ Ibid, p.20

¹⁶⁵ Interview, Mark Oseno, Busia Branch KNUT Executive Secretary, 31st March, 2015

¹⁶⁶ Feather, *The Essence of Trade Unionism: A Background Book*, p.95.

¹⁶⁷ Interview, Mark Oseno, Busia branch KNUT Executive Secretary, 31st March, 2015

¹⁶⁸ Interview, Hesbon Otieno, KNUT National Deputy Secretary General, 27th April, 2015

during his tenure, reminded Moi that he had no absolute say in matters of union strikes as that was the prerogative of the teachers and union organs. He pleaded with Moi that teachers would kill him if he ended the strike without their consent.¹⁶⁹

The union also embraced democracy while pursuing the mandates of its members. The operational organs conducted their elections every after 5 years where union members elected the Branch Executive Committee members, who later took part in the election of the NEC officials. According to a former election official, the KNUT Constitution guaranteed democracy in the union by allowing fair electoral competition. Every registered union member was free to vie for a position without remitting any funds as a prerequisite to contest. The election process saw union leaders subjected to scrutiny with non-performing ones being ousted.¹⁷⁰ It was argued that the fear of the electorate propelled the KNUT officials to adhere to the obligation of championing the members' demands without falling victim of state manipulation. The re-election of any union official was pegged on how best the leader articulated members' grievances. For example, the 1986 KNUT re-election of Ambrose Adongo, John Katumanga and nine other national officials was ascribed to their commitment to pursue teachers' agenda, despite the tough political environment of the time.¹⁷¹

The scenario was however, different in the 1996 elections as many dissatisfied delegates mainly the young generation of teachers were determined to oust Adongo. They regarded him old and ineffective in taking on the state. He was only rescued by the new scheme of service for the non-graduate teachers that the government had announced and for which Adongo claimed to have negotiated with the government. Moreover, Francis Ng'ang'a was unwilling to challenge his immediate boss, thus also saving Adongo from the ouster.¹⁷² The entire events demonstrated that there was no immunity to any leader, and members were equally ready to vote out a non-performer. It was for this reason that Adongo declared the 1997 strike action to send the message to the dissatisfied members of his readiness to battle the government.¹⁷³

¹⁶⁹ Ibid

¹⁷⁰ Kephias Odhiambo, Busia County, Senior Labour Official, 22nd June, 2015

¹⁷¹ *Weekly Review*, July 25, 1986

¹⁷² *Weekly Review*, July 19, 1996

¹⁷³ Interview, Fred Sichangi KNUT Bungoma branch Executive Secretary, 4th May, 2015

In addition, KNUT elections were conducted in a manner that facilitated the unions' unity and inclusivity. There was no open competition in all the union's national office positions. They were spread across the country with the specific slots held by particular regions.¹⁷⁴ The national chairman's position was reserved for Western, Rift Valley and Central provinces. The seat of the national treasurer was the preserve of Eastern and Kisii Nyanza regions. Nairobi, Luo Nyanza and Coast regions were slotted the seat of the secretary general, and Eastern Province occupied the Human Resource and Executive slot. In the perspective of the union, this arrangement unified the union leadership thus giving it a synergy in service delivery as well as battling the state.¹⁷⁵ Indeed, Sandbrook argues that most trade unions experience frequent factional struggles owing to the inability of union officials to remain united.¹⁷⁶ For KNUT, their system wiped out the euphoria of boardroom rivalry and in-fighting as was the case with COTU whose leadership rivalry paved the way for the Moi and KANU encroachment and subsequent co-optation of COTU.

Moreover, the KNUT constitution stipulated the retirement age. The union officials were not to work beyond 60 years. Article XVIII part E of the constitution states:

Any union official shall cease to hold office, upon attaining the age of sixty (60) years, upon resigning by notice in writing to the National Executive Council (NEC) or Branch Executive Council (BEC), dies or is removed by vote at an Annual Delegates Conference or special conference.¹⁷⁷

This was considered beneficial to the union because it allowed the union to be led by a crop of energetic and vibrant leaders. The provision also minimized leadership wrangles and individual dominance that could have created room for state manipulations. Indeed, the law was followed to the letter by all KNUT officials. It was for this reason that Lawrence Majali and George Wesonga were censured in 2010 for allegedly having lied about their age, leading to their unceremonious exit from the helm of KNUT.¹⁷⁸

¹⁷⁴ Interview, Mark Oseno, Busia branch KNUT Executive Secretary, 31st March, 2015

¹⁷⁵ Ibid

¹⁷⁶ Sandbrook, "Politics in Emergent Trade Unions: Kenya, 1952-1970" p.22

¹⁷⁷ *KNUT Constitution*, Revised in 2007, p.14

¹⁷⁸ Interview, Fred Sichangi KNUT Bungoma branch Executive Secretary, 4th May, 2015

3.3.2 Union Membership

The ability of KNUT to withstand and escape corporatism as engineered by the Moi government was also facilitated by its numerical strength. Feather opines that the strength of trade unions is in the size of their membership in relation to the number of workers in the industry or trade occupation for which they cater, and the loyalty and responsibility of the individual member.¹⁷⁹ Indeed, KNUT enjoyed a mammoth following in membership. At its founding conference in 1957, it had zero membership. In 1958, the 65 delegates representing the whole of Kenya became its initial members.¹⁸⁰ By 1968, the membership was 36,000, compared to 25,000 for Kenya Civil Servants Union, 20,000 for Kenya Local Government Workers' Union, and 45,000 for Plantation and Agricultural Workers' Union.¹⁸¹ However, through massive recruitment, by 1982 the union membership stood at well over 96,000 and by 1998 had grown to over 120,000.¹⁸² Though there remained the twin challenge of recruiting the new teachers joining service every year, the union registered tremendous growth in terms of membership. As per February 2007, KNUT had 186,315¹⁸³ members and by 2013 its membership topped 197,000¹⁸⁴, the second largest after the Kenya Plantation and Agricultural Workers' Union that had a membership of 200,000.

Article III of the KNUT Constitution defines the membership of the union. The article states, "every teacher registered, certified, licensed or authorized to teach against whose professional conduct no charge can be sustained shall have the right of admission to any of the branches of the union upon payment of entrance fees..."¹⁸⁵. With this requirement, the union recruited a sizeable number of members that were significant as far as union activities were concerned. First, very large percentage of the union funds was a product of membership contribution. Beginning from the 1990s, the KNUT constitution stipulated a subscription fee at the rate of 2% of the basic salary of every member per month, provided that such amount collected in lieu of subscription would not exceed 1200 shillings per month.¹⁸⁶ The

¹⁷⁹ Feather, *The Essence of Trade Unionism: A Background Book*, p.104

¹⁸⁰ Clement K. Lubembe, *The Inside of Labour Movement in Kenya*, Nairobi, Equatorial Publishers, 1968, p. 113

¹⁸¹ Ibid, pp.139-144

¹⁸² *KNUT Strategic Plan 2008-2013*", p.7

¹⁸³ Ibid

¹⁸⁴ Mudzo Nzili, quoted in the KNUT Strategic Plan 2015-2019's foreword

¹⁸⁵ *KNUT Constitution*, Revised 2007, p.3

¹⁸⁶ Ibid

constitution also recommended the check-off system as the avenue of collection through the Teachers Service Commission (TSC). With large membership, the union collected millions of funds that made it not only rich but also strong enough to battle with the corporatist KANU regime. Matanga posits that, the richer an NGO the higher the chances of its mounting and sustaining a confrontation with the state.¹⁸⁷ Therefore, the union enjoyed autonomy from state control as compared to other civil society groups that needed state funding which made them be trapped in the state's patron-client relationship.¹⁸⁸

Secondly, the support of KNUT membership for the union leaders made the union exert more pressure to the government. Whenever the union leaders were embroiled in any disagreement with the government, teachers always stood with the union. In other words, the success of KNUT in arm-twisting the government through industrial action, was pegged on membership support. Teachers would down their tools and stage street demos leaving learning in public schools virtually paralyzed.¹⁸⁹ For example during the 1997, 1998, 2002, 2009 and even 2012 strikes, the role of teachers could not be underestimated. Thousands of teachers braved through the seeming government indifference and pressed on with the strike.

For instance, during the 1997 and 1998 strikes, teachers withdrew their services in schools, assembled at their respective KNUT branch offices every day at 10am before staging street demos alongside their leaders. They chanted anti-government slogans, carried placards with the message, "It is now or never!" "No classroom until and unless you pay us!"¹⁹⁰ In some instances, teachers blocked roads especially in Kisumu and could be seen burning the effigy of the then Education Minister, Joseph Kamotho.¹⁹¹ They had one resolve, namely, to win the battle of their stalled salaries. The mixture of courage and obstinacy by teachers was replicated across the entire country with teachers more determined to win what they claimed was rightfully theirs.¹⁹² By putting down their tools especially at national exam times,

¹⁸⁷ Matanga, "Civil society and politics in Africa: The case of Kenya", p.6

¹⁸⁸ Interview, Fred Sichangi, KNUT Bungoma Branch Executive Secretary, 4th May, 2015

¹⁸⁹ Ibid

¹⁹⁰ Tuko News, A Timeline of Memorable Teachers Strike in Kenya since 1997, <http://www.tuko.co.ke/42552-a-timeline-of-memorable-teachers-strike-in-kenya-since-1997.html>, Accessed on 19th September, 2015

¹⁹¹ Ibid

¹⁹² Kamau, Francis M. Ng'ang'a: Battles and Triumphs, p.102

teachers were able to hold the entire country at ransom. The public outcry particularly from parents of school going children attracted more attention from the government.

In some instances, union members turned violent. For example in 1988 in the wake of a KNUT planned strike, teachers in Kakamega branch stormed the KNUT offices and ordered the branch executive secretary Benjamin Magwaga who had taken a silent stance to back the strike action.¹⁹³ This was a clear demonstration that the union members could not condone any practice they considered lenient or sympathetic to the state. This level of commitment from members was crucial in the success of KNUT activities involving a tussle with the government.

Teachers manifested great courage and could not listen to threats that were commonly issued by government to compel them resume their duties. For example during the 1998 strike, the Labour Minister, Joseph Ngutu threatened to sack teachers who did not report back to work. In defiance, teachers mobilized others more to join the strike including non-union teachers. They even issued a declaration warning that they would take reprisals against head teachers and education officers for scabbing in strike.¹⁹⁴ This dispute was a reflection of a growing militancy in the union in opposition to the austerity measures being imposed at the behest of the International Monetary Fund (IMF) and World Bank.¹⁹⁵

It has also been argued that democracy in KNUT which empowered the shop floor (teachers) in decision making strengthened the union to face the state. Indeed, members had the audacity to criticize, ridicule and take a swipe at non-performing union leaders. Through letters, seminars, public gatherings and the union's Annual General Meetings, teachers registered their disappointments and regrets hence shaping and influencing the KNUT leadership. For example, in June 1984 at Mombasa, a KNUT member through an open letter castigated the branch executive secretary for evading pertinent issues facing teachers and instead fuelling animosity between the union and the Ministry of Education. The disgruntled member noted:

¹⁹³ *Daily Nation*, September 3, 1988

¹⁹⁴ Terry Cook, *Kenyan teachers' Strike Betrayed*, World Socialist Website, October 22, 1998, www.wsw.org/en/articles/1998/10/keny-022.html?view=article_mobile, Accessed on 21st September, 2015

¹⁹⁵ *Ibid*

If you are bankrupt of ideas on how to assist the KNUT members on their day to day problems, kindly seek for them from our able General-Secretary, who will advise you accordingly before you shame the branch nationally by writing in-defensive letters of countless allegations without doing proper homework, and copying them to people who understand what leadership and unionism means...¹⁹⁶

This again demonstrates how daring the KNUT membership was not only in mounting pressure on leaders but also challenging them to exhibit outstanding tenets of unionism.

During elections, the members always cracked the whip at non-performing union officials. Beginning from the 1980s, many union officials were ousted from office not only through voting but also by calling for the dissolution of dysfunctional organs. For example, in November 1984, the teachers in the Isiolo KNUT branch mounted pressure on the Secretary General, Ambrose Adongo to dissolve the Branch Executive Committee which had faced internal power rivalry. Adongo had no way out but to bow to their demands.¹⁹⁷ The pressure was so intense that even the appointed care-taker committee of three members was to work in a direction dictated by the members. Similarly, during the 1986 KNUT elections, most of the non-militant incumbent branch officials lost their positions as a result of dissatisfaction from the members. This was highly pronounced in Meru branch where all incumbents were replaced during the elections.¹⁹⁸

Remaining committed to teacher's interests was like a religious obligation by the KNUT leaders. Any perceived act of betrayal or inefficiency by siding with the government was equivalent to a religious sacrilege and the punishment was severe. Teachers turned belligerent whenever their patience ran out, a move that kept the KNUT leadership on track. For example, in July 2002, the inflamed teachers in Meru North District burnt the effigy of the union's Secretary General Francis Ng'ang'a for failing them. During their Annual General Meeting, the more than 3000 primary school teachers wanted to know why the remaining phases of the 1997's 150 to 200% teacher's salary award had not been paid. Failure by the union's national Vice Chairman, Joseph Chirchir, and the second national Vice-chairman, David Ngocho to convince them saw rowdy teachers chase the two officials

¹⁹⁶ KNA/XJ/2/5: A letter from Mwandary wa Francis, a KNUT member, Mombasa Branch, 1984

¹⁹⁷ *Daily Nation*, October 2, 1984

¹⁹⁸ *Daily Nation*, June 16, 1986

away. They also burnt Ng'ang'a's effigy while calling him and the rest of national leadership of the union to resign.¹⁹⁹ This scenario was a replica of what happened in June the same year at Mwingi, where three thousand furious teachers threatened to lynch their union officials for calling off the strike that was to kick off on 10th June. During their annual general meeting, the angry teachers clambered onto chairs and shouted "lynch them! Lynch them!" as frightened officials of KNUT tried to reason with them.²⁰⁰ Such acrimonious response from the KNUT members always played a pivotal role in igniting commitment in the officials to represent them well by not falling victims of state control.

The nature of KNUT membership and the sheer numbers was not a bother just to the KNUT leadership but also to the political class. Sandbrook avers that government of most developing countries have been extremely wary of organized labour due to an apparent realization that union leaders historically, and in all parts of the world, have involved in politics and possesses organizational skills and political resources to constitute a potentially effective political force.²⁰¹ The involvement of teachers in community functions and their influential nature made the governments of Moi and Kibaki always wary on how to handle the giant teachers' union.²⁰²

Ng'ang'a opines that no government would ignore the crucial role played by teachers in bringing together and shaping children and the community at large. According to him the government was always careful in the manner it dealt with KNUT.²⁰³ He cites how strong teachers' unions world-wide successfully brought down governments after withdrawing their moral and numerical support following disagreements on industrial matters. While attributing the same strength to Kenyan teachers, he argues that teachers' message for or against the government was effectively communicated in society because of their proximity to the many electorates, something that caused jitters to politician. In fact during the 1998 strike, teachers' resistance provoked a severe crisis for the government. Only one week before the strike was called off, the government faced a vote of no confidence in parliament and repeated calls for

¹⁹⁹ *Daily Nation*, July 15, 2002

²⁰⁰ *Daily Nation*, June 10, 2002

²⁰¹ Sandbrook, "Politics in Emergent Trade Unions: Kenya, 1952-1970" p.32

²⁰² Interview, Benson Olumbe, KNUT member, 10th April, 2015

²⁰³ Francis Ng'ang'a quoted in Kamau's "Francis Ng'ang'a: Battles and Triumphs", p.110

it to resign.²⁰⁴ For this reason, Ng'ang'a contends that respective government in Kenya over the years listened to grievances raised by teachers through the union and in most instances their demands were addressed.²⁰⁵ It can be noted however that, while this assertion is true based on teachers' closeness to voters, their ability to win almost all their claims from the government is a bit exaggerated. For example, while the Moi government offered a massive 150-200 percent salary increment at the wake of the 1997 general elections, it reneged the offer after the elections, having only met phase one. Their numbers also became the source of the declining voice from the government as huge amount of money would be required to meet their demands.²⁰⁶

As noted earlier, the Moi regime used parliament to silence unwarranted civil society organizations through Parliamentary Acts such as the 1990 NGO Act. Questions have been posed why the parliament spared KNUT despite the havoc it caused the government and Kenyans at large through numerous strike actions.²⁰⁷ From the KNUT officials interviewed, the members of parliament could not proscribe KNUT due to fear of political consequences as discussed above. In their view, the union came into existence through an Act of Parliament in 1955 that was Moi's initiative. Thus Moi was reluctant to seek proscription of the union that he helped to establish.²⁰⁸ Similarly, the union enjoyed political goodwill. Instead of taking a swipe at KNUT for destabilizing the education sector through industrial action, the MP's always defended relevant Bills touching on teachers and educational policies. This is why for example, the proposed TSC/PSC merger by the Waruhiu Committee in 1981 was never implemented by the government, and the parliament maintained its silence over the matter.²⁰⁹ The move could have seen KNUT collapse because teachers would have become civil servants. Similarly, in 2002, the Parliament censured the Education Minister Henry Kosgey and his labour counterpart, Joseph Ngutu, for being untruthful and lacking in commitment to the smooth conclusion of teachers' salary dispute. Dr. Newton Kulundu, an M.P. in his address to parliament took the swipe at the government for renegeing on the

²⁰⁴ Terry Cook, Kenyan teachers' Strike Betrayed, World Socialist Website, October 22, 1998, www.wsw.org/en/articles/1998/10/keny-022.html?view=article_mobile, Accessed on 21st September, 2015

²⁰⁵ Francis Ng'ang'a quoted in Kamau's "Francis Ng'ng'a: Battles and Triumphs", p.110

²⁰⁶ Interview, Francis Ochieng' D.E.O. Bunyala, 3rd June, 2015

²⁰⁷ Ibid

²⁰⁸ Interview, Fred Sichangi, Bungoma branch, KNUT Executive Secretary, 4th May, 2015

²⁰⁹ *Weekly Review*, March 27, 1981

promises it made to teachers. He termed it an immoral act that should not be condoned.²¹⁰ The magnitude of support from Parliament was attributed to the sheer numbers and the input of teachers in shaping the political mind. This complicated the whole equation of proscribing KNUT by the Moi regime.

The numerical strength of KNUT also enabled it to have a representation in various fora and committees. The union was represented in the National Social Security Fund (NSSF), the National Health Insurance Fund (NHIF), the National Education Board, the District Development Committees, School Boards of Governors, Constituency Development Fund (CDF), the National Bursary Fund, among other national task forces. As such, many decisions made had the input of the teachers' union as well as enabling teachers to access necessary information on how to relate with the state.²¹¹

3.3.3 The KNUT Leadership

Matanga argues for strong leadership as part of the three factors responsible for the independence of NGOs and civil society organizations from the state. To Matanga, the organizations led by anti-establishment leaders tend to be more radical and oppositional to the state. He also posits that organizations led by the educated leaders are more likely to take an oppositional stand to the state due to their higher ability and capacity to comprehend complex agenda including state propaganda.²¹² His views are shared by the current KNUT Secretary General, Wilson Sossion who opines that the success of organizational business is often a result of unwavering commitment of the leadership and the members of the organization to a very clearly defined strategy.²¹³ It can therefore be argued that the union leadership under the stewardship of Ambrose Adongo, Francis Ng'ang'a, Lawrence Majali, David Okuta Osiany, Mudzo Nzili and Wilson Sossion played integral part in the survival of KNUT from state co-optation.

²¹⁰ Newton Kulundu's Parliamentary contributions, quoted by Kamau, in *Francis M. Ng'ang'a: Battles and Triumphs*, p.93

²¹¹ Interview, Mark Oseno, Busia Branch KNUT Executive Secretary, 31st March, 2015

²¹² Matanga, "Civil society and politics in Africa: The case of Kenya", p.7

²¹³ Wilson Sossion, quoted in the foreword in the KNUT Strategic Plan 2015-2019

Integrity and courage, thought and judgment, dedication and loyalty- these are all ingredients in make-up of a successful and respected trade union leader.²¹⁴ Ambrose Adongo is touted to have steered the union to its success due to some of these attributes. He was considered a dynamic, vibrant, towering and charismatic leader whose shoes, according to Francis Ng'ang'a, "no one ever dreamt to try and fit into."²¹⁵ Adongo was a fearless fighter, workaholic and a man of great and noble character. He managed to hold teachers together during his tenure and was always able to take on the government on matters touching on teachers and the profession. Adongo's unwavering nature in particular during president Moi's era saw his leadership greeted with both praise and condemnation in equal measures.²¹⁶ The following are some notable instances when Adongo collided with the state on matters touching on teachers or the education sector in totality.

In January 1981, Adongo clashed with the Minister for Basic Education Prof. Jonathan Ng'eno. This followed the latter's decision to demote and transfer the teachers of Sironet Primary School in Buret for allowing pupils to break for lunch instead of keeping them waiting for the Minister who was on a visiting trail in schools in the region. The move by the minister triggered off sharp criticism from the public with Adongo challenging the legality concerning the demotions and transfer.²¹⁷ In his opinion, the minister was overstepping his mandate since the demotion and transfer of teachers was the prerogative of the Teachers Service Commission. He was backed by other professionals and civil society groups who were appalled by the Minister's implication that children should forego their lunch in order to wait for him. In their view if Ng'eno had planned his tour properly, it would not have been necessary for him to arrive at any school during lunch time.²¹⁸ Adongo's rigorous defense of teachers, saved them from Ng'eno's harsh penalty.

During Adongo's tenure, several salary commissions and committees were appointed by both Presidents Kenyatta and Moi to review teachers' pay as well as to propose changes in the education sector. These included the Ndegwa Commission of 1970/71, the Waruhiu Committee of 1979/80, the Ramtu Committee of 1985 and the Mbithi Committee of

²¹⁴ Feather, *The Essence of Trade Unionism: A Background Book*, p.98

²¹⁵ Kamau, Francis M. Ng'ang'a: Battles and Triumphs, p.93

²¹⁶ Ng'weno, Ambrose Adongo, CD-ROM

²¹⁷ *Weekly Review*, April 11, 1981, see also Ng'weno, Ambrose Adongo, CD-ROM

²¹⁸ Ibid

1990/91.²¹⁹ The Waruhiu Committee of 1979/80 and its recommendations created a rift between the Moi government and KNUT under Adongo's leadership. The Waruhiu Commission proposed the merger of the TSC and the Public Service Commission (PSC).²²⁰ A sizeable number of teachers supported the recommendation terming it a solution to the huge gap in salary offers between the teachers and the civil servants. To one member of KNUT, "KNUT had exploited teachers long enough and it was high time it died a natural death".²²¹ However, the union expressed very strong opposition to merger with Adongo declaring the readiness of teachers to resist any attempt to amalgamate TSC and PSC. According to Adongo, KNUT was happy with the TSC being independent so that it could carry out the functions assigned to it.²²² According to the Waruhiu Commission, the union was more concerned with trade union politics than professionalism.²²³ The KNUT boss is inferred to have opposed the merger because his union would have automatically died like the Kenya Civil Servants Union that was deregistered. The unshakable commitment of Adongo in the anti-merger crusade salvaged the union as the government abandoned the merger plan.²²⁴

Adongo's determination to shape the education sector was not just "welfarist" in nature. In February 1982, he was embroiled in conflict with the minister of Higher Education, the bone of contention being the government's proposed 8.4.4 system of education. The Report of the Presidential Working Party on the Second University in Kenya (The Mackay Report, 1981) recommended the removal of the advanced (A) level of secondary education, and the expansion of other post-secondary training institutions.²²⁵ The Kenya Advanced Certificate of Education (KACE) examination was to be scrapped and the nine-year of Primary Education reduced by one year. Adongo disapproved the proposal claiming that the original nine years was intended to ensure that children leave primary school at the 'right' age to

²¹⁹ Kamau, *Francis M. Ng'ang'a: Battles and Triumphs*, p.63

²²⁰ *Weekly Review*, March 27, 1981

²²¹ *Daily Nation*, March 30, 1983

²²² *Ibid*

²²³ *Weekly Review*, March 27, 1981

²²⁴ Ng'weno, "Ambrose Adongo", CD-ROM

²²⁵ *Republic of Kenya*, Sessional Paper No. 1 of 2005 on "A Policy Framework for Education, Training and Research", P.2

enable them be absorbed by both formal and informal sectors.²²⁶ The divergent view from the KNUT Secretary General led to a delay in the implementation of the system until it had been streamlined.

In April 1982, Adongo faulted the Ministry of Education over the administration of the national examination. The row emerged when Adongo accused the Kenya National Examination Council (KNEC) of bias in the marking of examination papers from Nyanza Province, whereby for a long time Kisii District had seen its examination results cancelled for alleged malpractices.²²⁷ He accused the ministry and the examination council of foul play in the examination system and posting of teachers. Adongo's claim resulted in a heated exchange of words with the Minister for Higher Education, Joseph Kamotho. Through a press conference, Kamotho chided the KNUT Secretary General for making unfounded allegations. He lamented:

To accuse the examination council of foul play in conducting the marking of one examination is tantamount to casting doubt on certificates issued to authenticate performance in all the council's examination.²²⁸

He demanded an apology from Adongo, who however, declined to apologize and instead claimed he was speaking for all regions with full backing of the union members.

During his career, Adongo presented himself as a firm, resilient but suave and accomplished negotiator. He had an unshakable commitment to the teachers' cause. He had great charisma while articulating teachers' grievances.²²⁹ His ability to shift gears at the right moments helped the union survive state onslaught. Together with other national officials they always knew when to back down and stand with the government without being compromised. For example, in August 1986 Adongo and the rest of NEC opted to entice the government with political support as a way of seeing teachers' demands addressed. The KNUT leader urged teachers to identify themselves with the aspirations of the ruling party.²³⁰ He appealed to teachers to show their love for KANU by enrolling as members and contributing to all

²²⁶ *Weekly Review*, February 12, 1982

²²⁷ *Daily Nation*, April 28, 1982. See also, *Weekly Review*, April 30, 1982

²²⁸ *Ibid*

²²⁹ Kamau, "Francis M. Ng'ang'a: Battles and Triumphs", pp.63-63

²³⁰ *Daily Nation*, August 29, 1986

development activities. Adongo further praised president Moi's commitment to the teaching profession:

Let us all stand up and be counted among the staunch KANU supporters and help the government to formulate sound educational policies for the good of this young developing nation under *Nyayo* philosophy of peace, love and unity.²³¹

Adongo could do all these and yet remain teachers' representative. In October 1986, Adongo and KNUT were in another show down with the Minister of Education, Science and Technology, Peter Oloo Aringo over pregnant teacher trainees. The minister had decried teacher's graduation delay due to pregnancies and as a measure he suggested that in future such students be forced to pay for their extended stay in the institutions.²³² Adongo wondered why the Minister had singled out the trainee teachers for such punishment. He argued that such measures had to apply to all trainees in all the country's institutions to ensure fair play for all. He faulted the idea of punishing the victims whether by rustication or by making them pay for the extended stay in the colleges as illogical and tantamount to punishing nature.²³³ The Ministry finally abandoned the move.

The use of strike threats and actual strikes also epitomized Adongo's long tenure at the helm of KNUT. This was indeed a weapon unleashed by the union to deal with the Moi-KANU corporatist regime. This was always successful as the government was compelled to negotiate on matters advocated by the union. As it shall be discussed in the next chapter, Adongo's true character in arm-twisting the government was best captured in the 1997 pay saga, where teachers were awarded a whopping 150- 200 percent salary increase.

The unity in KNUT leadership also insulated it from state co-optation. There were cases whereby the popular union officials deliberately declined to challenge the incumbents as a calculated move to solidify the union in facing the state. For example, during the hotly contested 1996 KNUT national elections, many delegates particularly the young generation of teachers mounted pressure on Francis Ng'ang'a to challenge the leadership of Adongo.

²³¹ Ibid

²³² *Weekly Review*, November 28, 1986, See also Ng'weno, "Ambrose Adongo", CD-ROM

²³³ Ibid

Though with his star apparently on the rise, Ng'ang'a who had great respect for Adongo opted for the union's unity and continuity by declining to challenge Adongo.²³⁴

Similarly, after Adongo's death in 2001, some government officials allegedly pressured the KNUT chairman, John Katumanga to vie for the post of secretary general. According to Kamau, the government saw Katumanga quite easy to compromise unlike Ng'ang'a who was considered too abrasive and a firebrand just like Adongo. Katumanga however, recognized the ploy and rejected the proposal, opting to support Ng'ang'a who later won.²³⁵ Indeed, it was almost impossible to penetrate KNUT because of the unity among its leadership.

Francis Ng'ang'a's leadership style further propelled the union to greater heights. Like Adongo, Ng'ang'a embraced courage and assertiveness. Francis Atwoli the COTU Secretary General argues that the success of KNUT was ensured by stable leadership, strict discipline and mutual respect between its members and the leaders towards themselves and other unions.²³⁶ Atwoli viewed Ng'ang'a as a shrewd, consistent and articulate labour leader who benefitted greatly from the good training he received from his predecessors, Stephen Kioni and Ambrose Adongo. He argues that the stability witnessed in KNUT under Ng'ang'a's leadership was founded on the latter's integrity and commitment to steer the teachers along a clear cut path with the main objectives clearly defined. He praises Ng'ang'a for remaining steadfast in the struggle as well as forcing the government to play its part in helping to restore the dignity and honour of teachers and the profession.²³⁷

Ng'ang'a also adopted industrial action whenever the government proved unwilling to listen to teachers grievances. For example, in 2002 he led over 200,000 teachers to down their tools demanding for full implementation of the remaining four phases of the 1997 salary award. The 28 days strike was the longest in the history of the union.²³⁸

The KNUT leaderships also fought the corporatist codes of regulation a factor which spared the union from state control. For example at the 2005 National Annual Delegates conference in Nairobi, Francis Ng'ang'a led over 2000 participants in denouncing a Code of Regulations

²³⁴ *Weekly Review*, July, 19, 1996, also see Kamau's "Francis M. Ng'ang'a: Battles and Triumphs", pp.64

²³⁵ Kamau, "Francis M. Ng'ang'a: Battles and Triumphs", pp.64-65

²³⁶ *Ibid*, p.159

²³⁷ *Ibid*

²³⁸ *Daily Nation*, September 24, 2002

for teachers proposed by TSC. The new Act had barred school heads, deputies, senior teachers and Teacher Advisory Centre (TAC) tutors from actively participating in union matters.²³⁹ The move by the government was meant to starve the union of membership as well as dividing teachers in components for easy control by the state. Ng'ang'a succeeded over the issue as the government stopped their implementation.

The post-Ng'ang'a KNUT leaders such as Lawrence Majali, David Okuta Osiany, Mudzo Nzili wa Kuhenderua and Wilson Sossion kept the fire burning as they navigated other corporatist tendencies in the Kibaki regime. The militancy, unity, charisma and proper articulation of the members' grievances epitomized their leadership. They managed to maintain the independence of the union from state encroachment.²⁴⁰ Apart from the usual game plan of issuing demands, threats and actual strikes, the union embraced the most recent management approaches used by modern trade unionists. There were high degrees of interaction between the union, Ministries of Education, Labour, Finance and TSC to exchange ideas and share experiences towards the improvement of education, the teaching service and the general welfare of the teachers. Dialogue took a centre stage in resolving labour related conflicts. Strikes only became the option following the failure of these negotiations.²⁴¹

3.3.4. The KNUT Finances

The amount of resources any civil society group commands in financial and material terms is responsible for its independence from state control.²⁴² Richer organizations have higher chances of mounting and sustaining a confrontation with the state. In this regard, a trade union must possess financial muscle to fight an employer for better benefits of its members. While laying the foundation stone of the £ 166,000 KNUT headquarters Nairobi in 1975, the Labour Minister Ngala Mwendwa remarked, "Without financial strength, your negotiating capacity with your employers would of necessity be shaky because you would not have the necessary finances to back you up."²⁴³ Beginning from the 1980's the union's annual budget ran in millions of shillings. The main sources were membership dues and rent revenue. Each

²³⁹ Kamau, "Francis M. Ng'ang'a: Battles and Triumphs", p.169

²⁴⁰ Interview, John Nyagah, KNUT member, 28 April, 2015

²⁴¹ John, Machion, "Myriad of Challenges for KNUT leaders", *Education Watch*, Vol. 042, July 2011, pp. 16-17

²⁴² Matanga, "Civil society and politics in Africa: The case of Kenya", p.6

²⁴³ *Weekly Review*, April 14, 1975.

KNUT member was to pay twenty shillings monthly through the check-off system. This procedure was later amended. Every member had to contribute 2% of basic salary monthly, provided that such amount collected in lieu of subscription fee did not exceed 1200 shillings.²⁴⁴ New members also paid an entrance fee of Sh 5 though other levies were stipulated by local branches. With the union commanding a huge membership, 90% of its finances came from membership contribution.²⁴⁵

Rent from the KNUT headquarters' building in Nairobi also generated a reasonable sum of money. Two other subsidiary sources of revenue were available to the union. For example, the *Kenya Teacher* magazine was sold to branches at a subsidized price.²⁴⁶ In addition, branches which paid full time executive secretaries also transferred gratuities to the KNUT headquarters. There was also money deducted monthly from the salaries of employees and transferred to the headquarters. The union prudently invested the reserve funds in high yielding portfolio of securities.²⁴⁷ Rent income and the return on investment formed another reliable revenue source to the union.

The union had other alternative sources through the projects implemented at branch levels. These included investment funds, benevolent funds, savings and credit society funds and housing co-operative funds. Although the union leadership both at the national and branch level did not normally control these funds directly they were (and are) part and parcel of what would be called the KNUT finances. This is because such funds were only legally established under the umbrella of the union.²⁴⁸

The international (development partners) donors constituted another integral source of KNUT funding. The union leadership applied to them to organize activities that were of direct benefit to the members.²⁴⁹ Through the World Confederation of the Teaching Profession (WCOTP), KNUT immensely benefited from the international donors (national teachers' organizations). For example, the Canadian Teachers Federation (CTF) in conjunction with the WCOTP gave KNUT financial grants in the past to organize in-service

²⁴⁴ *KNUT Constitution*, Revised 2010, p.4

²⁴⁵ The KNUT Study Circle Material, A manual for the KNUT Training Programme, p.31

²⁴⁶ *Ibid*

²⁴⁷ *Ibid*

²⁴⁸ *Ibid*, p.32

²⁴⁹ Interview, John Obala, Executive Officer, KNUT Headquarters, 20th April, 2015

courses for teachers, union leaders and education officers. The Canadian International Development Agency (CIDA) provided these funds on behalf of CTF. The union therefore, improved its professional realm and also trained the members on unionism.²⁵⁰

The Danish Teachers Organization (DLF) in collaboration with WCOTP secured funds from the Danish International Development Agency (DANIDA) for KNUT to run leadership courses for teachers.²⁵¹ Similarly, the Norwegian Teachers Organization (NL) secured money from the Norwegian Agency for International Development (NORAD) for KNUT to organize women leadership training. In 1993, the WCOTP and the International Federation of Free Teachers Unions (IFFTU) merged to form the Education International (EI). Since then EI has been supporting KNUT on professional aspects through in-service training of teachers.²⁵²

Lubembe opines that the smooth running of a union calls for adequate finance to cover the numerous services which it is called upon to give to its members and to meet the cost of its operations, payment of salaries of members of its staff and office accommodation where the staff are housed.²⁵³ As far as KNUT was concerned, the wide scope of funding was of great use to the union in its battle with the state. The money was used in the mobilization of members during strikes by ensuring that education was virtually paralyzed.²⁵⁴ Secondly, the union funds were used to hire and pay legal practitioners who represented the union in court cases.

The success on the side of the union heavily depended on the quality of legal representation.²⁵⁵ For example, in 1990 at the wake of multi-party crusade, the KNUT secretary General Ambrose Adongo was arrested and interrogated by the Kenyan police at the Nyayo House Security office. These were days after Adongo incurred president Moi's wrath for threatening to call for the teachers strike. He was later released with the help of

²⁵⁰The KNUT Study Circle Material, "A Manual for the KNUT Training Programme", p.33

²⁵¹Ibid

²⁵²Assibi Napoe's speech to the 8th Education International Africa Regional Conference, Nairobi, 2nd -6th February, 2015

²⁵³Lubembe, *The Inside of Labour Movement in Kenya*, p. 172

²⁵⁴Interview, Fred Sichangi, 4th May, 2015

²⁵⁵Ibid

union legal experts.²⁵⁶ Francis Ng'ang'a, Adongo's successor was also arrested in several occasions. In 2004, he was charged at Nyeri Law Court for contempt of court.²⁵⁷

Similarly, the union remained independent from the state as it was capable of hiring and sustaining its workers. It also invested in research to make well informed decisions.²⁵⁸ Comparing KNUT with Maendeleo ya Wanawake, the co-optation of the latter in the 1980's was necessitated by the financial quagmire it was undergoing through. Thus Moi encroached the organization in the name of rescuing it, only to later co-opt it into the KANU system.²⁵⁹ KNUT on the contrary always recorded growth in the financial resources as well as stability in its management. This increased its independence from state control.²⁶⁰

3.4 Challenges Faced by KNUT in the Battle against Co-optation

KNUT managed to ward off onslaught from the state amid a myriad of challenges. They included state harassment, political interference, emergence of a parallel teachers' union, and the state-controlled Industrial Court among others.

3.4.1 State Harassment

The use of force was employed in some occasions by the state in a move to quell the union's demands. This involved verbal abuse, use of police to disrupt peaceful demonstrations, as well as actual arrest and detentions of the union officials. For example in September 1990 in the midst of the multi-party activism, Moi unleashed a scathing verbal attack on Adongo for his threat to call out teachers on a strike, calling him a dissident, a fool, and a man who had no love for children. He directed that all dissidents, Adongo included, be picked up as he went offensive against the advocates of multi-party politics.²⁶¹ This saw Adongo arrested alongside the businessman, Wanguhu Ng'ang'a. They were interrogated at the Nyayo House Security Office. The severity of the matter could be depicted in Adongo's refusal to comment to the media. Salient cases of state harassment are discussed in chapter four where the governments of Moi and Kibaki went offensive against the striking teachers. Francis

²⁵⁶ *Daily Nation*, October 16, 1990

²⁵⁷ Kamau, "Francis M. Ng'ang'a: Battles and Triumphs", P.108

²⁵⁸ Interview, Hesbon Otieno, Deputy Secretary General, 27th April, 2015

²⁵⁹ Gona, "Workers and the Struggle for Democracy in Kenya", p.186

²⁶⁰ *KNUT Strategic Plan 2015-2019*, p.4

²⁶¹ *Daily Nation*, September 27, 1990

Ng'ang'a for example, remembers what transpired during the 1998 KNUT strike where union officials received numerous anonymous letters warning them that they would be gunned down. There were also unmarked cars that kept trailing them. At the same time, hundreds of riot police armed with tear gas, whips and clubs occupied and surrounded union offices mainly to stop proceedings in the unions as well as gathering and demonstration of teachers. This however, did not drive teachers into submission.²⁶²

3.4.2 Establishment of a Parallel Union (KUPPET)

The Kenya Union of Post Primary Education Teachers (KUPPET) that was registered in 1998 has been touted as one of the obvious ploy used by the government to weaken and distract KNUT. Though this has been denied by both the government and KUPPET officials, its formation had a tremendous impact in the state/ KNUT relationship. The union lost some members, apart from the leeway that was created for the government to check the excesses of KNUT.²⁶³ For example, it has been argued by the KNUT officials that during the 2012 teachers strike, while KNUT wanted salary review and the implementation of the Legal Notice 534 of 1997 regarding allowances, their counterpart in KUPPET presented parallel demands in the name of harmonization of basic pay with the rest of the civil servants.²⁶⁴ Thus the government opted for the cheaper one- harmonization as advocated by KUPPET. In addition the two unions have been calling for and ending strikes in varied dates and circumstances that critics say has hampered the unity of the profession that KNUT was accustomed to.²⁶⁵

3.4.3 Political Interference

The smooth operations of KNUT was also hindered by politicians and the political environment in the country. In several occasions the state attempted to sponsor some candidates in KNUT elections as well as engaging union officials in malpractices such as taking bribes. Instances of bribery that targeted the KNUT negotiators have been raised. Francis Ng'ang'a, cites the 1997, 1998 and 2006 KNUT strikes as having witnessed the

²⁶² Francis Nga'ng'a quoted in Kamau, Francis M. Ng'ang'a: Battles and Triumphs, p.111

²⁶³ Interview, Hesbon Otieno, Deputy Secretary General, 27th April, 2015

²⁶⁴ Ibid

²⁶⁵ Interview, Kephias Odhimbo, Busia County Labour Official, 22nd June, 2015

vice.²⁶⁶ He recalls attempts that were made through proxies to indicate to him and other officials that good things and great benefits would come if they softened their position or gave in. He says they however, never contemplated abandoning the teachers' cause.

Similarly, controversies marred the 1986 KNUT branch elections where bribery and canvassing were rampant especially in the Kisii branch. As reported by the *Weekly Review*, politicians such as Simeon Nyachae were determined to impose some leaders on the union members leading to the eruption of violence and subsequent procrastination of the elections.²⁶⁷ In addition, the political environment after the 2005 National Referendum politics also threatened the KNUT's 2006 national elections. The election coincided with a charged political atmosphere in the country characterized by tribal inclination which eroded the idea-based nature of the union elections. Francis Ng'ang'a faced stiff challenge from William Ohonde for the Secretary-General portfolio, with the latter allegedly having been overwhelmingly campaigned by Orange Democratic Movement (ODM).²⁶⁸ The anti-Ng'ang'a supporters chanted Ohonde alongside the ODM slogans, though they were out maneuvered by the traditional organizational expertise of the KNUT incumbent. According to Kamau, besides openly expressing their displeasure and disapproval of the political machinations that rocked the elections, the delegates from most of the branches remained firm and unwavering in their support which saw Ng'ang'a re-elected.²⁶⁹

3.4.4 The Menace of Industrial Court

The establishment of the Industrial Court was meant for receiving and settling disputes unresolved by the voluntary negotiating machinery. The court was established in June 1964 by virtue of the Trade Disputes Act 1964, which was repealed after a year and replaced by the Trade Disputes Act 1965.²⁷⁰ Akello Misoru avers that for a long time, the Industrial Court has been used by the government as a tool of interference in trade unionism. He cites the repressive days of KANU government where workers lost out in disputes with the

²⁶⁶ Francis Nga'ng'a quoted in Kamau, Francis M. Ng'ang'a: Battles and Triumphs, p.111

²⁶⁷ *Weekly Review*, July 25, 1986

²⁶⁸ Francis Ng'ang'a quoted in Mbothu, Kamau, "Francis M. Ng'ang'a: Battles and Triumphs", p.114

²⁶⁹ *Ibid*

²⁷⁰ Aluchio, *Trade Unions in Kenya: Development and the System of Industrial Relations*, p.77 See also, S.R. Cockar, "The Industrial Court", in Saeed Cockar and Patricia Mbote et al, (eds) *The Industrial Court: A Course Book for Trade Unionists*, Friedrich Ebert Foundation, 1993, p. 320

government or politically connected employers.²⁷¹ The use of strikes having epitomized KNUT /state battles, the latter became notorious in seeking industrial court to quash the former's claims. This heavily hampered the union considering that the strike was the only clear language that would perturb the government to listen to teachers.

For example, in July 1993, through the Labour Minister Philip Masinde, the industrial court prohibited KNUT from mobilizing its members on a strike to advocate for the implementation of a scheme of service for non-graduate teachers.²⁷² At the same time, TSC warned teachers that they would be punished if they participated in union strike. According to Akello Misori, once the matter was before the Court, the unions were rendered powerless. They had to abide by the regulations of the court and court procedures. He cites the ruling by an industrial court judge in 1992 where the government was directed to pay teachers what it considered worth for teachers. They left the government to determine the level of salary award, a move which culminated in the 1997 KNUT strike as the government gave a raw deal to teachers.²⁷³

3.5 Conclusion

This chapter examined the factors that accounted for KNUT's survival from state onslaught. Through legislation, employment of state propaganda, co-opting of leaders, sponsoring of splinter groups, among others, the state muzzled many civil society organizations. The chapter established that the survival of KNUT was necessitated by various factors. First, there was a strong union organization characterized by a clear flow of information from grassroots to the national level. Through several organs, the decisions arrived at reflected the wishes of the members. There were also checks and balances within the union organs that minimized cases of unilateral decision-making and creation of cultic leadership.

Secondly, KNUT enjoyed large union membership that positioned it strategically to influence the government and the political class. Thirdly, KNUT benefitted from anti-establishment leaders who took oppositional stand to policies perceived detrimental to its members. Ambrose Adongo, John Katumanga, Francis Ng'ang'a, Lawrence Majali, David Okuta,

²⁷¹ Interview, Akello Misori, KUPPET Secretary General, 23rd May, 2015

²⁷² *Daily Nation*, July 14, 1993

²⁷³ Interview, Akello Misori, KUPPET Secretary General, 23rd May, 2015

among others were behind this success. The unity witnessed in their ranks was another ingredient that gave them determination to take on the state. Lastly, KNUT had accumulated wealth (in financial and material terms) which accounted for its independence from the state. Through membership contribution, projects at both branches and headquarters, investment funds, rents from their premises, and grants from the international donors, KNUT amassed billions of shillings that enabled it run its activities including battling the state through strikes and litigation processes.

CHAPTER FOUR

THE 1997 TEACHERS' STRIKE AND ITS AFTERMATH

4.1 Introduction

The 1997 teachers' strike was an important watershed in the KNUT's history as the union secured a mega salary increase from the government. In fact many of the strikes that followed since had something to do with pushing the government to implement one aspect or another of the award. The offer was meant to address the salary disparities between teachers and the rest of the public service. However, this was far from truth. As it shall be demonstrated in this chapter, the government after paying only the first phase, reneged on the remaining four phases citing lack of money and a depressed economy.²⁷⁴ This refusal by the state to implement the entire offer triggered the beginning of another series of unprecedented industrial actions starting from 1998.

However, a seemingly new dawn came in the education sector when Moi's 24 year rule came to an end in 2002. The new regime under Mwai Kibaki's NARC made several attempts to salvage the ailing education sector following the endless labour disputes. Indeed for a considerable period (between 2003 and 2009) there was tranquility in the sector as the state and the unions embraced dialogue. This did not mean all was well. The Kibaki administration also adopted some corporatist strategies to silence trade unions and other civil society groups. Thus, KNUT resorted to strike actions beginning from 2009 following resistance on part of the state to meet union demands for better remuneration. This chapter explores the salient dynamics in the relationship between KNUT and the state during and after the 1997 strike. Among the issues discussed are; the 1997 teachers' strike, the refusal by the Moi government to implement the remaining phases of the 1997 salary award, the 1998 and 2002 strikes, and the state/ civil society relations during the Kibaki era.

²⁷⁴News From Africa Bulletin, Kenya (Nairobi): *Teachers in Endless Wrangles with Government*, Washington, News From Africa Bulletin, October, 8, 1998, http://www.newsfromafrica.org/newsfromafrica/articles/art_838.html, Accessed on 23rd September, 2015

4.2 The 1997 Teachers' Strike

The 1997 teachers' strike remains the most memorable to date, both for its intensity and as far as teachers' welfare was concerned. According to P.L. Lubulela, it had been the normal trend in Kenya that the salaries and allowances of public servants should be reviewed at least after every two years. But because of the strenuous struggle for the implementation of the scheme of service for non-graduate teachers stretching from 1990 to 1994, the government took no cognizance of teachers in relation to salary increase. Thus the Teachers Service Remuneration Committee (TSRC) recommended a 150-200 percent salary increase.²⁷⁵

The Minister for Education, Joseph Kamotho, however, declined to grant the offer and only proposed a 15% salary increment that other government civil servants had been offered. KNUT could not buy that. Despite holding several meetings with the Minister, no compromise was reached and the union declared the existence of a Trade Dispute to the Minister for Labour. The Labour Minister, Phillip Masinde consequently referred the matter to the Industrial Court for arbitration. However, in another turn of events, TSC withdrew the case from court opting for out of court discussion.²⁷⁶

Discussions out of court bore no fruits prompting KNUT to issue a 21 days strike Notice to the Minister for Labour and Manpower Development, Philip Masinde on September 3rd 1997. This came after a crisis meeting of the KNUT's National Executive Council (NEC) held in Nairobi the same day. NEC also opposed the 10-28 per cent offer announced by the Education Minister earlier in the same week. While addressing members of the press at KNUT headquarters, the Secretary-General Ambrose Adongo said:

We would like to make it clear to you (Labour Minister) that the teachers have resolved not to accept anything short of the full implementation of the recommendations. Please note that this is not a mere threat but is truly meant to be acted upon; hence your action.²⁷⁷

²⁷⁵ Lubulela, "The KNUT in A Nutshell, 1957-1997: First 40 Years of Struggles and Frustrations", p.71

²⁷⁶ Ibid

²⁷⁷ *Daily Nation*, September 4, 1997

According to the committee's recommendations, the lowest paid teacher was to get a minimum of sh 5,640 with a top bar of sh 7,049. The highest paid teacher (Chief Principal) was to get a minimum of sh 42,240, with a top bar of sh 52,246. In addition, the committee recommended automatic house allowance for all cadre of teachers, with the lowest being sh 4,700 a month up from sh 640.²⁷⁸

On September 24 after the expiry of a 21 day Notice served to the Labour Minister, KNUT gave a seven-day fresh notice to TSC to implement the recommended salary structures or brace for the strike action. The notice to the TSC Secretary, Jackson Kang'ali read:

Take notice that at the expiry of these seven days' notice, which together with the 21 days' notice we gave to the Minister for Labour and Manpower Development makes a total of 28 days and no settlement of this dispute will have been realized, all teachers in Kenya will down their tools and resort to a strike action which will continue until a full settlement shall have been reached on their demands.²⁷⁹

In an effort to avert the looming strike, the Education Minister, Joseph Kamotho hastily announced increases in allowances of between 15 and 100 per cent to top up on the 10-28 salary increase he had announced earlier. While announcing the new allowances, Kamotho said that he was not duty-bound to gazette and implement the TSRC recommendations. This did not only anger the union officials but also instigated their hardline position. Adongo criticized the Minister for handling teachers' dispute "arrogantly and contemptuously".²⁸⁰ He also took a swipe at the government for alleging that the union was being funded by anti-government groups to destabilize the country. Adongo was supported by National Chairman John Katumanga, and Deputy Secretary General Francis Ng'ang'a.

Meanwhile, the KNUT branches also expressed their reservations by drumming for the strike action. The Nairobi branch through the Executive Secretary Kamau Mureu, rejected the new allowances, terming them "insignificant" and could not improve the lives of teachers. He also declared their readiness for the strike. The Kiambu Executive Secretary Julius Githinji while echoing Kamau's sentiments said that the branch had finalized plans for the strike and that

²⁷⁸ Ibid

²⁷⁹ *Daily Nation*, September 25, 1997

²⁸⁰ *Daily Nation*, September 27, 1997

teachers were ready for any eventuality. In Vihiga district, teachers also rejected the allowances calling them “mockery.” They therefore declared their readiness for the industrial action. The Mombasa branch Executive Secretary, Ahaya Juma also registered his disappointment with the Minister’s allowance proposals, which he described as a sham and vowed to press on with the October 1st intended strike. The Nakuru branch also rejected the new allowances and reaffirmed their support for the strike. The branch Executive Secretary, J. Kihiko said that teachers had no confidence in Kamotho and accused him of running the ministry “like a political party”. Many other branches including Bungoma, Kisumu, Tharaka Nithi, Ol Kejuado, Nyamira among others through their respective Branch Executive Committees expressed their ultimate support for the strike.²⁸¹

In another move aimed at averting the imminent strike by teachers, the government through the Labour Minister rushed to the Industrial Court. While justifying his action Mr. Masinde admitted his failure to arbitrate between TSC and KNUT, terming the later “elusive and stubborn”. He observed:

I have received representation from the management to refer this dispute to the Industrial Court for the necessary adjudication. The Industrial Court shall be allowed to deliberate on this dispute and give the necessary award and therefore the intended strike is unnecessary and unlawful.²⁸²

He maintained that the government could not meet the union’s demands as the budget would be up by sh 1.2 billion a month and create shortfalls in various departments. However, to mark a new trajectory in the dispute, KNUT ignored the court summons three times in a row hence shattering the door for court-brokered negotiations. Approached by the Industrial Court official, KNUT Secretary General Ambrose Adongo told the official that he would not accept the court summons “because the teachers would kill him.”²⁸³ With available modalities of arresting the dispute having failed, Adongo together with the KNUT secretariat led over 240,000 teachers on a nationwide strike, commencing on October 1, 1997.²⁸⁴ Teachers took to the streets crippling learning in public schools as hundreds of thousands of

²⁸¹ Ibid

²⁸² *Daily Nation*, September 30, 1997

²⁸³ *Daily Nation*, October 1, 1997

²⁸⁴ Lubulela, “The KNUT in A Nutshell, 1957-1997: First 40 Years of Struggles and Frustrations”, p.71

students and pupils were sent back home beginning from the first day. Led by their national and branch union leaders, they staged demonstrations across the country chanting anti-government slogans and torching the effigies of the then education Minister, Joseph Kamotho.²⁸⁵

According to the spot check done by the *Daily Nation*, skirmishes were witnessed in various Districts, including Machakos, Gucha, Nyamira, and Kisii. Schools in Nairobi were closed and there was no learning in those that were open.²⁸⁶ In Kiambu, more than 2,000 teachers converged at the Madaraka Gardens where they were addressed by local KNUT officials. The branch Executive Secretary, Julius Githinji, told teachers not to relent until they received official communication from the union headquarters. Teachers also marched for two kilo metres to Kiambu town carrying placards and chanting anti-government slogans. About 2,000 teachers in Siaya District held a peaceful demonstration in the town while schools remained closed. At Mbagha Girls and Siaya Township Secondary, demonstrators, led by the Boko KNUT Executive Secretary, Alex Dunga, forced teachers who had rejected the strike call to join them in the demonstration.²⁸⁷ In Nyandarua District, demonstrating teachers gave private schools in the area 24 hours to close down in solidarity with the national strike. The teachers who demonstrated in Nyahururu town held a meeting outside the DC's Office and threatened to take action against local banks and the DEO's office which they claimed had returned their September salaries to the Treasury, allegedly on instructions from the TSC. They also vowed to stop the national examinations. Many schools in Meru, Nyambane and Tharaka Nithi districts remained closed as students and primary school pupils chased away headmasters for remaining within the schools without teaching them. In Nyambane, all secondary schools in the district missed the KCSE examinations as teachers refused to administer the exam. Other areas heavily hit by the strike included Vihiga, Kisumu, Kirinyaga, Eldoret, Trans Mara, Narok, Kangundo, Matungulu, Yatta, Kitui, Homa Bay, Suba, Machakos, Busia, Bungoma, Mombasa, among others.²⁸⁸

²⁸⁵ Tuko News, *A Timeline of Memorable Teachers Strike in Kenya since 1997*, <http://www.tuko.co.ke/42552-a-timeline-of-memorable-teachers-strike-in-kenya-since-1997.html>, Accessed on 19th September, 2015

²⁸⁶ *Daily Nation*, October 3, 1997

²⁸⁷ *Ibid*

²⁸⁸ *Ibid*

Meanwhile, President Moi asked the various parties to enter into dialogue and find an immediate and long lasting solution to the crisis. This followed an earlier meeting held in the day between the top officials of KNUT and the Labour Ministry which bore no fruits. At the same time, KNUT received a boost in its salary agitation when 20 MPs including one from KANU vowed to support the teachers' strike. Led by James Orengo, the legislators also threatened to table a vote of no confidence in the government unless the teachers' pay saga was addressed.²⁸⁹

In order to further limit government options, KNUT demanded the government to withdraw the case challenging the legality of the strike before any meaningful negotiations would take place. The government finally bowed to the pressure. A letter to withdraw the matter read, "the two parties have today (3/10/1997) voluntarily agreed to return to the negotiating table under the chairmanship of the Minister for Labour and Manpower Development."²⁹⁰ However, with teachers being resolute not to relent, the government through the Education Minister, Joseph Kamotho, turned offensive by unleashing sacking threats. Through a circular to all the DEO's, Kamotho threatened to sack all teachers if they did not resume duty by October 8. He said, "We are sure that all teachers will go back to work, but anyone who fails will face summary dismissal."²⁹¹ He also alleged that the union was being funded by foreign donors through the National Convention Executive Council to sabotage the national economy and create chaos. On his part Adongo criticized Kamotho for issuing an ultimatum to teachers and accused him of usurping the powers of the Labour Minister following the latter's sacking threats. While quoting the TSC Act, Adongo said the threat was unlawful, hollow and could not take any effect as the Minister had no legal powers to discipline any teacher.²⁹²

KNUT branches also faulted Kamotho over his sacking remarks. The Nairobi branch officials said that their 4,000 members would not go back to class until their demands were met. They warned Kamotho to stop threatening teachers "like KANU delegates" who he

²⁸⁹ *Daily Nation*, October 4, 1997

²⁹⁰ *Ibid*

²⁹¹ *Daily Nation*, October 8, 1997

²⁹² *Ibid*

manipulated at will.²⁹³ In Uasin Gishu, teachers said they would lynch any teacher who heeded the Government's order. The Executive Secretary, Joseph Barsolai, also told teachers to wait for an okay from Adongo. In Kitale, more than 2,000 teachers held a peaceful demonstration along the streets demanding for the resignation of Kamotho. They attempted to storm the local DC's residence only to be barred by armed policemen. In Siaya, teachers together with union officials burnt the effigy of Kamotho. Other solidarity statements came from Machakos, Kuria, Kisumu, Othaya, Nandi, Mombasa, Lamu, Kilifi, Wundanyi, Embu, Makueni, Trans Mara, Kakamega, Kiambu, Laikipia, and Kipiriri.²⁹⁴

The level of union militancy witnessed in the strike kept on escalating into violent-related activities. On the 8th day for example, teachers in Nairobi stormed the offices of Mr. Kamotho at Jogoo House, demanding that he sacks them "in dozens" as he had indicated. Dancing, singing, and chanting anti-kamotho slogans, the teachers camped at the Minister's office for about two hours. They vowed to continue with the strike until the government met their demands. Teachers also marched to the TSC headquarters, Jogoo House, Parliament and NSSF Building which housed the Labour Ministry. They demanded the sacking of Kamotho, Masinde, TSC Secretary, Jackson Kang'ali, and Education Permanent Secretary, Elizabeth Masiga.²⁹⁵ In Kisii, Nyamira and Gucha districts, teachers took to Kisii town by storm after they demonstrated carrying Kamotho's effigy in a coffin which they buried at the local cemetery. The scenario was a replica in Kisumu where secondary school head teachers joined their striking colleagues in demonstrations that culminated in the burning of Elizabeth Masiga's effigy. Teachers also visited several schools, threatening to lynch any head teacher found in the compound. The events in Mombasa turned belligerent when angry striking teachers roughed up the Mombasa police boss, Sammy Maritim, burnt an effigy of Kamotho and defied orders to meet local DC Paul Olando. The police boss had confronted the demonstrating teachers outside the Barclays Bank as they were heading to the Treasury Square and pushed him away. He immediately drove off.²⁹⁶

²⁹³ Ibid

²⁹⁴ Ibid

²⁹⁵ *Daily Nation*, October 9, 1997

²⁹⁶ Ibid

These demonstrations were characterized by varied messages in the placards. The inscribed messages included, “No Threats can Detriment our Solidarity”, “Mr. Meanstar!” No More Threats from Political Rejects!!” “Resign or Reform!!!”²⁹⁷ “The Struggle Continues! Kamotho Must Go!” “Adongo ni Mwenyewe! (Adongo is the really one)” “*Aluta Continua!*”²⁹⁸ Teachers remained unmoved despite state violence meted on them. In fact in one bizarre instance, Mr. Thomas Ochoro, a teacher at Anding’o primary school died when he was run over by a mini bus during demonstrations at Kusa Market in Kisumu.²⁹⁹

By 10th of October, it was clear that the government bureaucracies had failed to break KNUT’s indomitable spirit. This prompted President Moi to appoint a committee on the Moi Day celebration with a 48 hours feedback ultimatum given. The deadlock was only broken when the government bowed to the union’s demands and agreed to implement the 150-200 percent pay rise.³⁰⁰ The 12-days strike ended on 13th October 1997, following the conclusion of the agreement announced on 12th October, 1997 at President Moi’s Kabarak home in Nakuru District. This culminated in the signing of the agreement- the Legal Notice 534 of 1997. Some notable names in this agreement were Fares Kuindwa (then Head of Public Service), Simeon Lesirma (then Treasury PS), and Justice Aaron Ringera (then Solicitor-General). Teachers were represented by John Katumanga (then KNUT Chairman), Ambrose Adongo (then Secretary-General), and John Bosco Mboga (then Treasurer).³⁰¹ This agreement was to be implemented over five-year period with effect from July 1, 1997 as captured below:³⁰²

Salaries

Year	Highest Earnings	Lowest Earnings
1st July 1997	25%	45%
1st July 1998	35%	45%
1st July 1999	35%	40%
1st July 2000	35%	40%
1st July 2001	20%	30%

²⁹⁷ Ibid

²⁹⁸ *Daily Nation*, October 8, 1997

²⁹⁹ *Daily Nation*, October 10, 1997

³⁰⁰ *Daily Nation*, October, 13, 1997

³⁰¹ Lubulela, “The KNUT in A Nutshell, 1957-1997: First 40 Years of Struggles and Frustrations”, p.71

³⁰² *Daily Nation*, October 14, 1997

Allowances

Allowances	1997	1998	1999	2000
House	35%	10%	5%	
Medical	15%	5%		
Responsibility	100%	150%	150%	100%
Special	10%			
Hardship	30%			
Automatic Commuter		10%		

Under the new structure, the starting salary for the lowest paid teacher moved from sh 1,880 a month to sh 2,726, while the starting scale for the highest paid teacher-the Chief Principal moved from sh 19,115 to sh 23,893. There was also introduction or increment of various allowances. For example, teachers were to get a house allowance of equivalent to 50% of their basic pay, medical allowance amounting to 20% of the basic pay, a commuter allowance worth 10% of the basic pay, and for those in areas gazette as hardship regions, a hardship allowance equivalent to 30% of the basic pay. This award was to be implemented in five years between 1997 and 2001.³⁰³

4.3. The Moi Government Reneges on the 1997 Salary Award

As it emerged, the Moi government implemented only the first phase of the deal. The government then declined the remaining phases, citing not only lack of money but also unhealthy economy. The government also discouraged any agitations for salary increment by threatening to lay off 66,000 teachers as part of the recommendation of the World Bank in

³⁰³ Ibid

the famous Structural Adjustment Programmes (SAPs).³⁰⁴ The Moi government therefore, adopted the “can’t pay won’t pay” stance. Indeed, soon after the 1997 general elections, the Education Minister Kalonzo Musyoka publicly confessed that the government had signed the deal under pressure and that phase one was only paid up so as to win teachers’ votes.³⁰⁵ Similarly in order to quash this award, the government introduced a new Bill seeking to amend the provision of Section 14(3) of the TSC to give the Minister for Education “discretion to reject any recommended remuneration which was not in keeping with economic management.”³⁰⁶ The introduction of this Bill degenerated into a litany of insults with the union leadership pleading with M.Ps to reject and push for its withdrawal. In anger, the KNUT Secretary General, Ambrose Adongo observed, “The plundering of the economy continues unabated and the government must meet the teachers’ pay demands since top civil servants are still living lavishly”.³⁰⁷ The government remained adamant in its refusal to pay. The Education Minister even took a swipe at teachers for not being tolerant and allow the parliament debate the Bill rather than demanding its withdrawal at such an early stage. For the union, the stance taken by the government was a clear demonstration of arrogance and lack of commitment to address their demands.

Other parties also came at teachers’ defense. The Kenya Human Rights Commission (KHRC) Executive Director, Maina Kiai told the government to apologize for “pauperizing teachers” when the economy was vibrant.³⁰⁸ The Quarry and Mine Workers’ Union also called on the government not to renege on its pledge to the teachers. The union’s Secretary General, Wafula Musamia described as “hypocritical and dishonest” the argument by the Minister that the teachers’ salary deal was signed under duress. Similarly, the Parliamentary Committee on Health, Labour, and Social Welfare headed by Lurambi MP, Newton Kulundu

³⁰⁴ Joseph Kipkemboi, “The Impact of Structural Adjustment Programmes on Kenyan Society”, *Journal of Social Developments in Africa*, vol.17, No.1, January 2002, p.95. See also, Kamau, Francis M. Ng’ang’a: Battles and Triumphs, p.91

³⁰⁵ Kamau, Francis M. Ng’ang’a: *Battles and Triumphs, A Portrait of a Modern Trade Unionist*, p.87

³⁰⁶ Philip Ngunjiri, Kenya (Nairobi): Labour- Kenya, *Teachers’ Strike Paralyzes Schools Nationwide*, Inter Press Service News Agency News, July 16, 1998, <http://www.ipsnews.net/1998/07/labour-kenya-teachers-strike-paralyses-schools-nationwide/>, Accessed on 20th September, 2015

³⁰⁷ Ibid

³⁰⁸ Ibid

argued in defense of teachers that the government would afford to effect the award.³⁰⁹ Despite these protestations, the government stance of “cannot pay” remained. Meanwhile KNUT appealed to all teachers to take part in the series of demos organized by the union to force government withdraw the introduced Bill in Parliament. Facing pressure from teachers and a section of the M.Ps, the government finally withdrew the Bill, with Education Minister Kalonzo Musyoka terming it a mean to pave way for sober dialogue.

4.3.1 The 1998 Teachers’ Strike

The government was uncomfortable with the agreement it had signed with teachers and was desperately seeking ways to annul it. With all possible mechanisms within the framework of the law having failed, it opted for the re-negotiation of the 1997 salary award with KNUT citing lack of funds to implement the remaining phases. This was however fiercely refuted by the union’s national as well as branch leaderships. In fact Adongo while bitterly responding to President Moi’s call for the re-negotiation remarked:

It is hypocritical for the President to try to renegotiate teachers’ salaries. President Moi himself set up the committee that endorsed the 150-200 pay award and he backed it without reservations. It is therefore naive for the same person to support those calling for renegotiation. Even if the meeting will be convened by God, we will never attend it!³¹⁰

On their part, the KNUT branches rejected plans to re-negotiate the contentious salaries. They called upon the national officials not to enter into dialogue with the government saying it could not be trusted with any agreement. They warned that any talks must be after thorough consultations with all the branches. The branches included Murang’a, Nairobi, Kiambu, Machakos, Kitui, Busia, Bungoma, Kilifi, Meru North and Narok.³¹¹ They insisted that their members would go on strike on September 14 in spite of the talks, and so long as

³⁰⁹ News From Africa Bulletin, Kenya (Nairobi): *Teachers in Endless Wrangles with Government*, Washington, News From Africa Bulletin, October, 8, 1998, http://www.newsfromafrica.org/newsfromafrica/articles/art_838.html, Accessed on 23rd September, 2015

³¹⁰ *Daily Nation*, June 20, 1998

³¹¹ *Daily Nation*, August 5, 1998

the government was not ready to implement the second phase of the salaries. Murang'a district branch executive secretary David Njoroge said that the more than 8,000 teachers in the district would down their tools in September if the new salaries were not forthcoming. The Meru North branch executive secretary Dickson Thurania said it was wrong for the national officials to renegotiate "since the award was legally given." He further noted that they were not to help the government take away what was due to teachers in the name of negotiations by supporting the national officials.³¹²

Meanwhile, pressure from KNUT branches and teachers ignited the resolve of the national officials not to participate in renegotiation. In fact, for three consecutive times, the union snubbed the Industrial Court summons following the case filed by the Labour Ministry in an attempt to quash the intended teachers' strike. At the same time, KNUT filed a preliminary objection on October 1, in which it claimed that the court had no jurisdiction to preside over the pay dispute.³¹³ Judge Charles Chemmutut, however, censured the teachers for threatening to strike "in an uncivilized way" for a dispute "still owned." The government is also alleged to have plotted to kidnap the KNUT national officials and take them to the Industrial Court by force, having snubbed the summons. Speaking to the press, the Secretary General Ambrose Adongo observed:

We did not sleep in our houses, we had reliable information that some people intended to force us to the Industrial Court and we had to hide to escape the embarrassment the situation would have brought to our members.³¹⁴

On the same day (October 1), the KNUT's National Executive Council (NEC) and the Advisory Council unanimously endorsed the strike action as hundreds of teachers chanted outside waiting for the go ahead direction.

The refusal by the government not meet teachers' demands culminated in the strike which kicked off on October 5, 1998.³¹⁵ This was despite political and religious leaders who sent last minute appeal to teachers and the government to avert the strike. Several Ministers

³¹² Ibid

³¹³ *Daily Nation*, October 2, 1998

³¹⁴ Ibid

³¹⁵ Kamau, *Francis M. Ng'ang'a: Battles and Triumphs, A Portrait of a Modern Trade Unionist*, p.89, See also *Daily Nation*, October 6, 1998

among them, Nicholas Biwott, Musalia Mudavadi, Henry Kosgey and Sam Ogeri, pleaded with teachers to call off the strike. The clergy led by archbishop David Gitari and John Njue also sent out their pleas that fell on deaf ears as teachers remained unmoved.³¹⁶ The strike brought learning in public schools at a standstill as armed policemen guarded offices of KNUT. According to the police chief directing the operation against strikers, Otieno Osur, security officers had been instructed to prevent teachers from converging on KNUT offices or holding any meeting.³¹⁷ Heavy police surveillance did not drive teachers into submission as thousands of them still took on the streets with placards. The inscribed message included, “Professor in Politics who is Older? A 50 years Old or a 74 years old? Retire! And we shall follow you! No turning back!”³¹⁸

In response to the crisis, a bitter President Moi publicly pleaded with teachers to be tolerant. He bleated, ‘*Hakuna Pesa! Hakuna pesa!* (There is no money! There is no money!).’³¹⁹ However, a seemingly defiant union stuck to its demands. KNUT national chairman John Katumanga also reacted bitterly, “we have been patient but we cannot go on like this forever!”³²⁰ Adongo on his part condemned police brutality and urged teachers to remain firm. He said, “We are not criminals. We are only fighting for our rights and we will not stop until we get them. Even God and Satan are aware we are on the right.”³²¹ He ruled out any possibility of calling off the strike until and unless their pertinent demands were met. The KNUT branches countrywide also asked their members to ignore President Moi’s sentiments and intensify their strike operations. In Nairobi, the branch executive secretary Mureu Kamau said his members would continue with the strike, despite Moi’s sentiments. He observed, “Strikers do not go back to work in response to public political pronouncements, which are distinct from return-to-work formulas. The KNUT called the strike and it will be the one to

³¹⁶ *Daily Nation*, October 5, 1998

³¹⁷ *Daily Nation*, October 6, 1998

³¹⁸ *Ibid*

³¹⁹ *Ibid*

³²⁰ News From Africa Bulletin, Kenya (Nairobi): *Teachers in Endless Wrangles with Government*, Washington, News From Africa Bulletin, October, 8, 1998,

http://www.newsfromafrica.org/newsfromafrica/articles/art_838.html, Accessed on 23rd September, 2015

³²¹ *Daily Nation*, October 6, 1998

call it off.”³²² He criticized the government for not engaging the teachers instead engaging in political theatrics.

With this courage and obstinacy from teachers, the government intensified the police crackdown on those taking part in demos. Hundreds of police armed with tear gas, whips and *rungus* (clubs) occupied and surrounded union offices throughout the country to stop KNUT officials and teachers from entering or gathering in demonstrations outside.³²³ In villages and towns, striking teachers were set upon and beaten by the riot police and vigilante groups allegedly organized and armed by the government. In Nairobi, for example, police in full combat gear used tear gas against hundreds of teachers who were trying to assemble outside the union’s headquarters.³²⁴ They chased them through streets, beating and arresting scores of them. In Mombasa, the police also violently dispersed hundreds of teachers who were attempting to converge on the city’s treasury building. The scenario was quite similar in Malindi town where riot police attacked over 400 teachers and threw them out of public transport vehicles when they tried to enter the town for a rally.³²⁵

A demonstration by over 2000 strikers in Vihiga was also broken by tear gas and baton attacks. In Isiolo, many strikers, parents and students were badly injured by riot police. Union officials in Kuria were forced to flee their homes after being attacked by the vigilantes who threatened to lynch them if the strike went ahead.³²⁶ Other areas where police brutality on strikers was observed were in Kajiado, Taveta, Thika, Kericho, Kitui and Kilifi towns. All these acts of harassment and intimidation did not deter teachers from taking part in the strike. As a KNUT NEC member observed, they only served to attract more vengeance from teachers who swore to soldier on.³²⁷

Meanwhile, teachers also threatened to execute those they termed the “enemies of the strike” particularly the head teachers of various schools. For example in October in the middle of the

³²² *Daily Nation*, October 12, 1998

³²³ Terry Cook, Kenya: *Violent attacks on striking Kenyan teachers*, World Social Website, International Committee of the Fourth International, October 9, 1998, http://www.wsw.org/en/articles/1998/10/keny-o09.html?view=article_mobile, Accessed on 23rd September, 2015

³²⁴ *Ibid*

³²⁵ *Ibid*

³²⁶ *Ibid*

³²⁷ Interview, Fred Sichangi KNUT Bungoma branch Executive Secretary, 4th May, 2015

strike a number of school head teachers received two sets of leaflets warning them that they would be fire-bombed if they did not support the strike. They were also ordered to close the schools. According to the Daily Nation, a head teacher said the leaflets signed “supporters” and “Solidarity” warned:

You are strongly warned against the strike defiance. We know how to use and make petrol bombs! You will face dire consequences if the schools are still operational after this week.³²⁸

This move came after the Education officers advised principals to supervise the national examinations, and their deputies and heads of departments to be invigilators.

The strike was only called off after 20 days following the intervention of the clergy, led by Catholic archbishop Ndingi Mwana wa Nzegi and David Gitari. They arbitrated between the government and the union. The union’s NEC unanimously voted to end the strike, with Adongo cynically declaring, “It has reached a time to show our sympathy to the nation”. He claimed that the decision had been reached due to their love for the parents and students.³²⁹ This decision however, did not go down well with teachers who felt betrayed by the union leadership. A teacher in Isiolo condemned the decision as “untimely, demoralizing and a sign of cowardice.” Another teacher from Nakuru said, “After all these days of sacrifice and police brutality it is a betrayal to call off the strike with no concrete deal.”³³⁰ They only decided to resume duty as dictated by the circumstances.

To further cement its position, in the same year the government discouraged the union from advancing the teachers’ cause by threatening to retrench 66,000 teachers. This was in line with the Structural Adjustment Programmes (SAPs) demanded by the World Bank and the International Monetary Fund (IMF). KNUT vigorously protested the move arguing that most schools were understaffed. Though the government backpedalled over retrenchment of teachers, it directed TSC not to recruit nor train teachers with effect from 1998.³³¹ KNUT

³²⁸ *Daily Nation*, October 15, 1998

³²⁹ *Daily Nation*, October 21, 1998

³³⁰ *Ibid*

³³¹ Kamau, *Francis M. Ng’ang’a: Battles and Triumphs, A Portrait of a Modern Trade Unionist*, p.91

further protested this decision. It was until 2000 that President Moi ordered the resumption of training of teachers.³³²

4.3.3 The 2002 Teachers' Strike

The 1998 strike ended with no deal leaving majority of KNUT members demoralized. Taking the advantage of the incoming general elections, the union's Secretariat out of growing frustrations and mounting pressure from the branches, endorsed another industrial action. Just like the 1998 strike, the union KNUT demanded for the implementation of the remaining phases of the 1997 salary offer.³³³ The Labour Minister while sensing the inevitability of the strike as called by KNUT, appointed an arbitration panel headed by Josephat Mutungi. The negotiation however, bore no fruits as the government insisted of there being no money to pay teachers.

KNUT finally declared the strike on 23rd September, 2002. KNUT Secretary General Francis Ng'ang'a castigated the Education Minister Henry Kosgey, the Permanent Secretary, Prof. Japheth Kiptoo and TSC's Executive Director, Benjamin Sogomo for misadvising the government on teachers' pay. A disappointed Ng'ang'a let over 200,000 teachers on the strike claiming that diplomacy had failed and the remaining language for the government to listen was the strike.³³⁴ Learning was left paralyzed as hundreds of teachers marched on the streets in demonstration.

In a move to maim union activities, the Labour Minister cancelled the check-off system through which TSC remitted monthly dues from teachers. At the same time Education Minister, Kosgey de-gazeted the salary award terming it illegal.³³⁵ The union protested the move by filing a case against the Minister. It emerged the winner as the court finally dismissed Kosgey's move. Following the failure of these counter strategies by the government, the government resorted to police brutality on demonstrators. Teachers' employ also threatened to sack all teachers participating in the strike. TSC even advertised teaching vacancies in a move to create fear in teachers so as to resume duty. KNUT on its part rubbished the sacking threats and dared the commission to mean its threats. The union further

³³² Ibid

³³³ Kamau, *Francis M. Ng'ang'a: Battles and Triumphs, A Portrait of a Modern Trade Unionist*, p.93

³³⁴ *Daily Nation*, September 24, 2002

³³⁵ Kamau, *Francis M. Ng'ang'a: Battles and Triumphs, A Portrait of a Modern Trade Unionist*, p.94

directed its members to keep off the classrooms. The strike went on until the government promised to pay though in a period of ten years.³³⁶

4.4 The Kibaki Regime (State-Civil Society Relations)

Mwai Kibaki and his NARC was elected the third president of Kenya during the 2002 general election. The amalgamation of major opposition parties into the National Rainbow Coalition (NARC) created a formidable force that finally removed KANU from office.³³⁷ The election of Kibaki brought about dramatic changes. Some civil society organizations and leaders had joined the Kibaki campaign with the hope of better state and civil society relations in the aftermath of election victory. Indeed this happened when Kibaki came to power. Dialogue was enhanced between the government and civil society groups.³³⁸

The Kenya National Union of Teachers became a strong ally to NARC at the wake of the 2002 general elections. For the first time, KNUT publicly declared its support to a political party. In fact, KNUT Secretary General, Francis Ng'ang'a metaphorically called upon teachers to slaughter chicken to signify the end of KANU dictatorship.³³⁹ The teachers had been infuriated by KANU following the latter's move to renege on the 1997 pay increase after only paying one phase. As Kamau observes, KANU had bowed to teachers' demands of massive salary award in the run-up to the 1997 elections, in which KANU won. Teachers therefore voted in Kibaki in a move aimed at punishing Moi and his KANU party. Similarly, NARC had promised to implement the remiang phases.³⁴⁰

With the change of regime in 2003, KNUT became friendly with the government. However, having been out smarted by the KANU regime in the run up to the 1997 general election, the union was cautious in relation to the deals it signed with the government.³⁴¹ The NARC government accepted to sign the first agreement in which the pay deal was spread to six years. This boosted further the relationship between KNUT and the NARC government. It

³³⁶ Kamau, *Francis M. Ng'ang'a: Battles and Triumphs, A Portrait of a Modern Trade Unionist*, p.94

³³⁷ Mwangi Githinji and Frank Holmquist, "Transparency without Accountability: the Case of Political Reform in Kenya", Working Paper, *Department of Economics*, University of Massachusetts, AMHERST, 2011, p.19

³³⁸ *Ibid*

³³⁹ Kamau, *Francis M. Ng'ang'a: Battles and Triumphs, A Portrait of a Modern Trade Unionist*, p.179

³⁴⁰ *Ibid*

³⁴¹ *Ibid*, p.82

marked a break away from the traditional style of agitation; strike method. As Kamau notes, the improved relations between KNUT and the government was responsible for the success of the introduction of Free Primary Education (F.P.E).³⁴² The president could even preside over the union's Annual Conference in 2003. The president always softened his stance and embraced dialogue whenever the union and teachers articulated their grievances. Cases of labour disputes were handled peacefully. Thus, most of the bargaining agreements reached between the KNUT and the Moi government were fulfilled during the Kibaki era.³⁴³

The Kibaki leadership also opened democratic space to civil society organizations particularly with the passage of the New Constitution. Workers and the *wananchi* (citizens) were allowed to express their diversionary views. In the teaching fraternity, the Teachers Service Commission was detached from the Ministry of Education. This new dispensation saw Ministers and Permanent Secretaries in the Treasurer, Labour and Education Ministries, including TSC officials, wary of crossing the teachers' path. The union was constantly maneuvering and advocating for its members.

For example, in 2003, Ng'ang'a together with KNUT secretariat successfully negotiated with the Kibaki government over the implementation of the remaining phases of the 1997 salary award. The period of payment was reduced to five instalments.³⁴⁴ With such friendly developments, a period of relative peace was experienced in the teaching fraternity. KNUT even appealed to its members to show appreciation to the government by redoubling their efforts to ensure pupils enrolled got the best education possible.

The cordial relationship between KNUT and the Kibaki government did not however, imply all was well. The union involved in various loggerheads with the government especially during Kibaki's second term. This followed the regime's adoption of various corporatist strategies that were geared towards weakening the civil society organizations as demonstrated below. The Kibaki administration for example, tempted civil society leaders to join government. This was the case with Njoki Ndung'u who was nominated to parliament and John Githongo of Transparency International-Kenya Chapter who was appointed

³⁴² Ibid, p.84

³⁴³ Interview, Hesbon Otieno, KNUT Deputy Secretary General, 27th April, 2015

³⁴⁴ Kamau, *Francis M. Ng'ang'a: Battles and Triumphs, A Portrait of a Modern Trade Unionist*, p.107

permanent Secretary and Presidential advisor on matters of governance and corruption. According to Peter Wanyande, this move robbed civil society of leadership.³⁴⁵ Wanyande argues further that the decision by civil society whether by design or by default to work very closely with the NARC government was a major blow because it gave the government confidence and courage that opened the door for major scandals such as the Anglo Leasing to take place. He believes this affected the ability and freedom of civil society to effectively check government excesses.³⁴⁶

Legislations became another avenue of state control of civil society groups. The media became a target by the Kibaki regime especially because of its nature of exposing scandals involving the government and powerful state officials. This was despite the opening of space for these organizations to play the watchdog role. Wanyande cites the Media Bill that was passed in Parliament and assented by President Kibaki into law in January 2007, as one major government ploy to gag the media.³⁴⁷

KNUT also battled such an onslaught. For example at the 2005 National Annual Delegates Conference at Nairobi's Moi Sports Centre, Kasarani, KNUT delegates vowed to fight against a code of regulations for teachers that had been proposed by TSC. TSC had enacted among others a clause which sought to outlaw school heads, deputies, senior teachers and Teacher Advisory Centre (TAC) tutors from actively participating in union matters.³⁴⁸ Ng'ang'a, termed the move malicious because it was aimed at limiting union membership thus weakening the financial power of KNUT. The pressure of KNUT saw the government finally withdraw the regulation.³⁴⁹

Similarly in 2008 the government proposed a legislation requiring teachers to sign performance contracts. Through the contracts, the government wanted to evaluate teachers regularly so as to enhance the performance. However, Ng'ang'a effectively staged a spirited fight arguing that teachers were permanent and pensionable and would not listen to any

³⁴⁵ Peter Wanyande, "Civil Society and Transition Politics in Kenya: Historical and Contemporary Perspectives", in Alioune Sall, Peter Wanyande, et al (eds), *Discourse on Civil Society in Kenya*, Nairobi, African Research and Resource Forum (ARRF), 2009, P.16

³⁴⁶ Ibid,

³⁴⁷ Ibid, p.17

³⁴⁸ Kamau, *Francis M. Ng'ang'a: Battles and Triumphs, A Portrait of a Modern Trade Unionist*, p.169

³⁴⁹ Ibid, 117

persuasion put on them.³⁵⁰ Teachers feared the contracts would replace their employment contracts and eventually be undermined together with the union. As it turned out, KNUT managed to prevail despite the push by the Kibaki government to see all teachers contracted.

Working closely with legislation was the Industrial Court. It has been argued that just like the Moi regime, the Kibaki administration also sought the support of the Industrial Court to silence trade unions. The right to be part of a trade union is entrenched in article 41 of the constitution of Kenya 2010. The principles of collective bargaining provide the basis for the right to strike.³⁵¹ The Kibaki government however took upon itself the mandate of limiting KNUT's strikes by seeking court interventions. As claimed by a labour officer, the government benefitted from most of the court rulings.³⁵² For example following a teachers' strike in 2009 over salary increment, the TSC went to the Industrial Court seeking the stoppage of strike. The court went ahead and declared the strike illegal and allowed the TSC to take disciplinary action including withdrawal of salaries for those who participated in the strike. Justice Isaac Mukenya gave an order after representatives of KNUT failed to appear in court for the case.³⁵³

Similarly, in 2012 following the teachers' strike led by the two unions over salary increment, TSC rushed to the Industrial Court and filed Notice of Motion against the two unions- KNUT and KUPPET. The commission wanted the two members to be restrained from taking part in the unprotected strike they termed illegal.³⁵⁴ Despite the unions allegedly having followed the due process, Lady Justice M. Onyango ruled in government's favour. The strike was declared unprotected for having failed to comply with the requirements of section 76 of the Labour Relations Act. The parties were directed to immediately engage in conciliation in good faith with a view of solving the dispute.

³⁵⁰ *Kenya Standard Newspaper*, May 28, 2008

³⁵¹ *The Constitution of Kenya 2010*, pp.47-48

³⁵² Interview, Kephias Odhimbo, County Labour Official, 22nd June, 2015

³⁵³ Anthony Kagiri, *Court Outlaws Kenya Teachers' Strike*, Capitalfm News, January 23, 2009, <http://www.capitalfm.co.ke/news/2009/01/court-outlaws-Kenya-teachers-strike/>, Accessed, 20th September, 2015

³⁵⁴ *Republic of Kenya*, Industrial Court of Kenya, Cause 1539 of 2012, www.kenyalaw.org/caselaw/cases/view/85905, Accessed on 19th September, 2015

Harassment and intimidation of teachers and union officials was another corporatist strategy in the Kibaki dispensation. For example, following the teachers' strike of January 2009, where KNUT led over 230,000 teachers on strike, over 40 teachers and union officials were arrested. In Emuhaya in Western Kenya, 31 teachers were picked up by police for participating in demonstration. Eight teachers were arrested in Mombasa while two were picked up in Meru and one in Gatundu.³⁵⁵ According to the Daily Nation, confrontation between protesting teachers and KNUT officials, on one hand and police on the other, took place in Mombasa, Kiambu, Gatundu, Meru, Kakamega, Isiolo and Vihiga districts. In some instances, police used tear gas to disperse teachers who had taken to streets. Ten of the teachers were injured in the clashes.³⁵⁶

These harassment by the state never drive KNUT into submission. KNUT maintained its role as a teachers' representative and contrary to the co-optation of other civil society leaders into government as pointed, the union remained an exception. That is why under Lawrence Majali as the Secretary General, KNUT led over 230,000 teachers on a strike demanding a 19.2 billion shillings salary increment to be paid in one installment. Despite a court injunction, teachers downed their tools. The government offered 17.3 billion shillings that was distributed in three installments.³⁵⁷ Similarly, under David Okuta Osiany as KNUT Secretary General, the union militancy remained. For example, on 3rd September, 2012, Okuta and the KNUT secretariat led its members on a nationwide strike asking for a 300% salary increment and the immediate implementation of the 1997 Legal Notice 534 in regard to the allowances payable to teachers.³⁵⁸ The strike went on despite an injunction order by Industrial Court judge Pyrum Ongaya. The strike culminated into the harmonization of teachers' salary with the rest of the civil servants.³⁵⁹

³⁵⁵ *Daily Nation*, January 30, 2009

³⁵⁶ *Ibid*

³⁵⁷ *Ibid*

³⁵⁸ Jukwaa Discussion: Kenya Platform, *Teachers Stay away from Classes as schools reopen*, www.jukwaa.proboards.com/thread/7338/kenya-teachers-effectively-on-strike, Accessed on 21st September, 2015

³⁵⁹ Interview, Hesbon Otieno, Deputy Secretary General, 27th April, 2015

4.5 Conclusion

This chapter unraveled important dynamics particularly state-union (KNUT) relationship after the 1997 teachers' strike. It was demonstrated that despite awarding a mega offer of between 150 and 200 percent, the Moi government reneged on this agreement. Apart from declining the implementation of the remaining four phases, the government made several attempts to annul the entire offer citing its illegality. There was for example the introduction of a TSC amendment bill to empower the Education Minister to de-gazette any provision that was not in keeping with economic management. This move however, failed following outcry from unions. In response to these developments, KNUT led teachers to nationwide strikes in 1998 and 2002.

The entry of the NARC government to power in 2003 marked a paradigm shift in state-civil society relationship. Tranquility was restored in the teaching profession as dialogue assumed centre stage in dispute resolution. Indeed, a great part of the 1997 teachers pay award was implemented in this dispensation. Despite the new developments, the regime also adopted some corporatist control strategies. These included absorption of civil society leaders in government, a factor which deprived these organizations of good leadership. There was also use of legislations including the media bill that was signed into law by president Kibaki in January 2007. The bill was intended to regulate media freedom. Use of the Industrial Court, unleashing of violence to strikers, and intimidation were other control machinations employed by the Kibaki regime against civil society organizations.

CHAPTER FIVE

CONCLUSION

The purpose of this study was to establish why the Kenya National Union of Teachers (KNUT) survived the state onslaught against trade unions and other civil society organizations between 1982 and 2013. The study adopted the application of qualitative method of data collection with both secondary and primary sources of data being used. The study was based on three objectives which were to investigate the nature of state corporatism in Kenya; to explain KNUT's strategies of resistance against state co-optation; and to examine the contribution of KNUT leadership in dealing with state co-optation.

The study established that state corporatism is one of the two corporatist types identified by Philippe Schmitter, the renowned corporatist scholar. The other type is social corporatism. In Kenya state co-optation was rampant during the leadership of President Daniel arap Moi (1978-2002). Indeed, the regime perpetuated many acts of brutalization and abuse of power that saw many trade unions and several civil society groups muzzled if not co-opted. The Moi administration did so via the four strategies which were: the use of legislations, the meddling with organizations' leadership, the reorganization and creation of splinter organizations, and the use of propaganda and coercion. Legislation entailed actual deregistration, the threat of deregistration, refusal to grant registration, and the drawing of new laws to control the growth and activities of the civil society organizations. The use of this strategy culminated in the proscription of the UASU, UKCS, SONU, the Matatu Vehicle Owners Association (MVOA) and the Public Service Club. Moi and his government cited among other things, the over-indulgence in politics by these organizations as the cause of the proscription. Organizations such as NCKK was on several occasions threatened of its imminent deregistration particularly for linking the government in the 1991-92 tribal clashes in some parts of the country. NGO's were also stripped of their freedom when in 1990, the Parliament passed an NGO Act that empowered the government to monitor the registration and activities of these organizations.

Through the removal of leaders and the meddling in union elections, the government also succeeded in silencing trade unions. The salient example in this strategy was the

government's role in the election of Joseph Mugalla as the COTU Secretary General in 1986. The government handpicked Mugalla as its preferred candidate, canvassed and bribed the delegates and directed them to ensure he was voted in. With Mugalla's election into office, Moi and his KANU moved swiftly to manipulate COTU such that by 1989, the organization had abandoned its mandates and was only serving as a government puppet. Similarly, during the 1980s, Maendeleo Ya Wanawake faced financial difficulties and was on the brink of collapse. This prompted the Moi government to intervene. Moi rescued the movement but ironically he went ahead and co-opted it into KANU, such that from 1989 MYW could not agitate, mobilize or generate ideas for itself or criticize the government. Union leaders were also appointed in strategic national commissions in a move to entice them to the government side. For example, in 1986 Ambrose Adongo then Secretary General of KNUT was appointed in the Presidential Working Party on Education and Manpower.

The Moi administration also created parallel organizations in a move to weaken the dominance of the strategic social groups. The formation of KUPPET in 1998 was claimed by KNUT as a ploy by the government to divide teachers and as such be able to check on KNUT's stability. They argued that the state endeavoured to control KNUT by shifting the attention to KUPPET on matters affecting teachers. The reorganization of the Kenya Farmers Association into the KGGCU in 1983, was also seen as the government plan to minimize the power and influence of powerful Kikuyu landowners.

The use of state propaganda was also treasured by the Moi government in its onslaught against civil society groups. The intention was to gain public support to the detriment of these organizations. The NCK, KNUT and LSK were occasionally accused by the government as being "stooges" of foreigners who wanted to undermine its leadership. Leaders such as Adongo were arrested and grilled by the government in 1990 in suspicion that they were being funded to destabilize the country. Striking teachers also witnessed a wave of state violence from the police who had been directed to disperse any gathering. All these were meant to silence them and their organizations.

The study also focused on examining KNUT's survival strategies from state co-optation. As discussed in chapter three, the study established that four factors necessitated this survival. They are the nature of the union organization, the role of the members, the leadership, and

the financial position of KNUT. KNUT had a well-defined structure from grassroots to the national level. This guaranteed flow of information to either side. School representatives channeled teachers' opinion to the branches which in turn channeled to the national leadership. As such, decisions made had the input of the shop floor. The KNUT constitution provided for checks and balances, hence no decisions were unilaterally made and implemented. For example, a strike was endorsed by the NEC and calling off also needed the NEC or the Advisory Council. Democracy was also upheld in KNUT. Elections were conducted after every five years with electoral slots being distributed regionally. This exercise gave union members power to remove the non-performing ones, a factor which kept leaders on their toes. The fear of the electorates therefore, sealed loop holes of state manipulations. Distribution of slots regionally and the concept of retirement age reduced cases of leadership rivalry which the state always targeted to co-opt trade unions.

KNUT membership was in itself an extra voice used by its leadership to mount more pressure to the government. Membership subscriptions accounted for 90 percent of KNUT's sources of funds that was effected through the check-off system. Union leaders also relied on this huge membership to arm-twist the government through strike actions. Teachers always paralyzed learning in public schools at the same time taking part in street demos. During the Moi era for example, teachers demonstrated their commitment to the union by joining their leaders on streets. While carrying placards and chanting anti-government slogans, this sheer numbers accounted for KNUT's militancy that led to the signing of the 1997 salary award. They remained steadfast despite a wave of violence meted on them by riot police. The political class also took cognizance of the fact that teachers shaped the political opinion and as such, KNUT enjoyed political goodwill from the Parliament.

The members also took advantage of the democracy in the union to condemn any non-performing or state loyalist officials. This was done through seminars, Annual General Meetings, conferences, open letters, and union elections. This sparked commitment from union leaders in pursuing members' interests by not falling victims of state manipulations. In fact at several occasions KNUT leaders who lynched by furious teachers who suspected cases of betrayal. The effigies of KNUT leaders just like government officials would be burnt

and buried by union members while expressing their disappointments. The members' contributions acted as a great impetus in KNUT's survival from state co-optation.

The leadership of KNUT was another strong pillar behind its escape from state corporatism. The union benefitted from a crop of leaders who apart from being anti-establishment, were committed to see the betterment of the union members. They had organizational knowledge and worked hand in hand with the members in consonance with the union constitution. Ambrose Adongo, John Katumanga, Francis Nga'ang'a, Lawrence Majali, George Wesonga, David Osiany, Mudzo Nzili, and Wilson Sossion, among others were responsible for the battles and triumphs. Adongo's tenure for example, was more pronounced at colliding with the government on major educational policies as well as teachers' welfare. Known for his charisma, intelligence, boldness, and assertiveness, Adongo and KNUT troubled the government through strike threats and actual strikes. Flagged by huge union membership, he led teachers to strike in 1997 that has remained a watershed in the union's history.

Adongo's assertiveness invited reprisals from President Moi who at one time called him a "dissident". He also knew when to confront as well as to backtrack. For example, strikes were called during examination and electioneering periods and as such the state was persuaded to the negotiating table. Other union leaders who succeeded Adongo demonstrated the same tenets. They remained steadfast in articulating for teachers' demands without being coaxed or manipulated by the government. Francis Ng'ang'a for instance, led KNUT to the 2002 strike following the refusal by the Moi government to meet the remaining phases of the 1997 salary award. Lawrence Majali and David Osiany led teachers on strike in 2009 and 2012 respectively. These instances demonstrate the extent to which KNUT leadership chose to differ with the state in pursuant to members' demands. This could not therefore, warrant the co-optation of KNUT.

KNUT also boasted of its financial muscle that positioned it well to counter corporatism. The union controlled a lot of wealth (in financial and material terms), that was acquired from membership contributions, union investments, rent collected from its premises, selling of magazines (Kenya Teacher magazine), and grants from development partners (International donors). These resources ensured that the union would not only sustain its many programmes such as payment of staff salaries and organizing of in-service seminars but also strengthened

its independence from the state. Thus, while organizations such as Maendeleo Ya Wanawake and COTU faced co-optation due to financial constraints, KNUT recorded exponential growth in finances to empower it battle co-optation.

This study also examined a new form of corporatism that developed during President Kibaki's regime. It was found that the Kibaki administration brought about dramatic changes as far as state/civil society relationship was concerned. There were frequent peaceful engagements between civil society groups and the government. In matters of industrial disputes, the regime softened its stance and sought dialogue to resolve issues. Indeed, the study took cognizance of the role that dialogue played in defining the state/union relations. The acceptance by KNUT officials to negotiate with the government on industrial disputes not only left the union strong but also laid the ground for its survival from state co-optation. The new dispensation also opened a democratic space to civil society organizations to act as a watchdog to the state. KNUT and the regime agreed to settle the remaining phases of the 1997 salary award by 2008. The government also took cognizance of KNUT concerning important policies in education. The introduction of Free Primary Education received teachers' support following the cordial relationship between the government and the union. This did not mean that KNUT always supported the government. The union differed with government in many instances. For example in 2005, KNUT took a swipe at the government following the latter's introduction of a code of regulation that sought to outlaw school heads, deputies, senior teachers and Teacher Advisory Centre (TAC) tutors from participating in union matters. The government had to withdraw this regulation. In 2008, KNUT also rejected the government's proposed legislation to compel teachers sign performance contracts. The union staged countrywide demos forcing the government to backpedal over the plan.

The union also castigated the Kibaki government of its role in manipulating the Industrial Court whenever KNUT called for a strike action. Indeed both the 2009 and 2012 teachers strikes, the government rushed to court which not only declared the strikes unprotected but also illegal, despite the correct procedures followed by the union. This however, would not stop teachers as they occasionally ignored court summons and instead go on with strike. The government also in some instances used armed police to quash teachers' peaceful demonstrations. Striking teachers also faced threats of sacking, withholding their pay and

allowances and forceful evacuation from government houses in schools. Not all these corporatist tactics succeeded in bringing KNUT under state submission.

The media was not spared either, as in 2007 a media Bill was passed and signed into law by President Kibaki despite public out-cry. The law was seen as another recipe to gag the freedom of civil society groups. Active civil society leaders were also co-opted by the Kibaki government, thus robbing them of good leadership and as such weakening their oversight role.

Finally, in battling state co-optation, the study established several challenges that KNUT encountered. They included the intimidation and harassment from the political class that saw KNUT as a tool used by the opposition to undermine the government. The state further employed propaganda to tarnish and demean the union, especially by terming it a vessel used by foreign forces to kill the education system. The government is also sponsored the formation and registration of a parallel teachers' union (KUPPET) to neutralize and check on the monopoly enjoyed by KNUT. Other challenges were; political interference in internal union affairs such as elections where politicians attempted to temper with union's elections so that weak candidates that were easy to manipulate won. There was also pressure from disillusioned members who saw the dilly-dallying in the implementation of awards by government as a choreographed plan between the government and union officials. Some members often turned violent towards these leaders like what happened in Meru in 2002, where angry mob of teachers descended on two KNUT officials for failing to ensure the 1997 salary award was implemented. There was also the scourge of HIV/AIDS that consumed a pool of union members; ideological differences in the ranks of leaders especially concerning the length of strikes; and the challenges posed by the Industrial Court, which was prone to state hoodwinks and manipulations.

It can therefore be concluded from the study that due to good union organization, the membership support, the financial ability, and the good union leadership, KNUT was able to navigate state attempts of co-optation between 1982 and 2013. The union remained strong and never abandoned its role in championing for its members cause. To this extent the theory of state corporatism was relevant to the study. The theory is characteristic of totalitarian and authoritarian societies, where interest organizations which have been created or recognized

by the state are granted representational monopoly mainly as a result of political ambitions of the ruling elites. The theory helped in understanding the nature of state corporatism in Kenya by examining how and why the Kenyan regimes co-opted some of the civil society organizations vis-a-vis the survival strategies adopted by KNUT against this co-optation. This study therefore provides a benchmark onto which to assess and analyze the parameters that make a trade union or a civil society organization independent and free from state control. The knowledge on history and unionism has also been expanded and as such, the study will contribute to future research on similar topics.

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