

## JOINT STATEMENT STUDENTS BEFORE PROFIT: TEACHER UNIONS AND CIVIL SOCIETY UNITE TO CONDEMN THE COMMERCIALIZATION OF EDUCATION IN KENYA

According to Article 53 of the Constitution of Kenya 2010 every child has the immediate right to free and compulsory basic education. This is emphasised in Section 28 of the Basic Education Act 2013 and Section 7 of the Children's Act 200.

The 2009 *Policy for Alternative Provision of Basic Education and Training* (APBET), recognises alternative or 'non formal' schools. Under this policy, non-formal schools have fewer requirements in terms of curriculum, infrastructure and teacher qualification.

The original intention of APBET recognition and support for non-formal schools was to provide access to education to children who would have otherwise been unable to attend the formal education system do to the unavailability of an adequate number of public schools. However, this policy has allowed big corporations and edu-businesses to benefit from these lower legal requirements and profit from the delivery of non-formal education in areas of the country that remain largely under-served by public schools.

These unintended consequences have drawn the attention of the United Nations Committee on Economic, Social and Cultural Rights, the United Nations Committee on the Rights of the Child and the African Commission on Human and Peoples' Rights all of which have expressed concern over the growing privatisation of education and fee charging for-profit schools in Kenya such as Bridge International Academies.

Most recently, on 21<sup>st</sup> January 2016, the 71<sup>st</sup> session of the United Nations Committee on the Rights of the Child asked the Kenyan government to respond to the growing privatisation of education, specifically the impact of Bridge on the quality of education in Kenya. Olga Khazova, UN Committee member and Rapporteur for Kenya stated: "There are regulations on the quality of education children should receive but when it comes to Bridge, these regulations seem not to be enforced. What is the government doing about this?"

This follows from concerns expressed in November 2015 by the United Nations Committee on Economic, Social and Cultural Rights (UNCESCR). Specifically, it asked "how the State party has regulated and monitored informal private schools, or low-cost private schools, to ensure quality education."

Similarly, the African Commission on Human and Peoples' Rights questioned the definition of "non-formal schools" by the Kenyan Government. It asked: "Why are private school chains, such as Bridge International Academies, registered as non-formal schools, whereas they appear to offer formal education?"

In May 2015, 116 organisations across the world expressed their deep concerns about the World Bank's support for Bridge International Academies.

Bridge is a multinational chain of low-fee profit-making private primary schools targeting poor families in Kenya, Uganda, Nigeria. It has over 400 schools in Kenya. In Kenya, it is exploiting a loophole in regulations allowing it to register as 'non formal' schools instead of private schools.

The school chain has recently come under scrutiny over its opposition to new guidelines by the Kenya Cabinet Secretary for Education aimed at ensuring basic standards in non-formal schools such as the recruitment of qualified teachers.

The expansion of Bridge is a manifestation of the growing commercialisation and privatisation of education in Kenya. This commercialisation and privatisation of education represents one of the greatest threats to the achievement of the UN Sustainable Development Goals adopted in September 2015.

This threat has also been recognised by the UN Special Rapporteur on the right to Education, Kishore Singh, who warned that "soon, it may not be an exaggeration to say that privatization is supplanting public education instead of supplementing it", where "inequalities in opportunities for education will be exacerbated by the growth of unregulated private providers of education, with economic condition, wealth or property becoming the most important criterion for gaining access to education".

### **Teacher unions and civil society therefore, call on the government to**

- close existing legislative and regulatory loopholes and ensure compliance in relation to minimum national standards with respect to the provision of education. Registration of schools must be conditional on full compliance with minimum standards.
- fulfil its obligations consistent with the UN Sustainable Development Goal 4. By adopting the Sustainable Development Goals governments have committed to *ensure inclusive and equitable quality education and promote lifelong learning opportunities for all*. Target 4.1 requires governments to *ensure that all girls and boys complete free, equitable and quality primary and secondary education leading to relevant and effective learning outcomes*.
- fulfil its primary obligation to properly and adequately fund free quality education for all children regardless of the background. This is crucial to Kenya's future prosperity.

Signed,

Kenya National Union of Teachers (KNUT)

East African Centre for Human Rights (EACHRights)

Economic and Social Rights Centre – (Hakijamii)

Action Aid-Kenya

Kenya Union of Post Primary Teachers (KUPPET)

Universities Academic Staff Union

International Commission of Jurists – Kenya Chapter

Katiba Institute

The Cradle

Transparency International - Kenya

Global Initiative for Economic, Social and Cultural Rights

Education International