

MINISTRY OF EDUCATION



Republic of Kenya

KENYA, A NATION IN TRANSITION

**OPPORTUNITIES AND CONSTRAINTS, ALIGNMENT
OF THE EDUCATION SECTOR TO THE NEW
CONSTITUTION**

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Abbreviations/Acronyms

AIDS	Acquired Immune Deficiency Syndrome
ESQAC	Education Standards & Quality Assurance Commission
FPE	Free Primary Education
GDP	Gross Domestic Product
HIV	Human Immuno Virus
KESSP	Kenya Education Sector Support Programme
KICD	Kenya Institute of Curriculum Development
KNEC	Kenya National Examination Commission
KQFA	Kenya Qualification Framework Authority
MOHEST	Ministry of Higher Education, Science and Technology
NCST & I	National Council for Science, Technology and Innovation
ST & I	Science Technology and Innovation
STI	Science Technology and Innovation
TVET	Technical Vocational Education and Training

KENYA, A NATION IN TRANSITION

Opportunities and Constraints, Alignment of the Education Sector to the New Constitution

1.0 Scope of the Paper

- a) Background
- b) Implications of the Constitution of Kenya 2010 on Education and Training
- c) Education and Training Policies and Legal Frameworks
- d) Process of designing education training and research reforms
- e) Reform outputs
- f) Major education policies and legal frameworks thrusts
- g) Summary of key education achievements

2.0 Background

Over the last eight years, Education, Training, Research and innovation has been guided by the Sessional Paper No.1 Of 2005, Kenya Education Sector Support Program(2005-2010) (KESSP) document , MOHEST strategic plan (2008) and Science, Technology and Innovation Policy (2009). These policy documents have served the sector well since their launch and implementation which has enabled the Country to make tremendous achievements in the education sector in terms of improving access, equity, quality, relevance and sector management. However, a lot of challenges related to Education, Training, Research and innovation have arisen and numerous developments have taken place in our country, including the aspirations of the **Kenya Vision 2030** and the implication of Kenya **Constitution, 2010**.

3.0 Implications of the Constitution of Kenya 2010 on Education and Training

The enactment into law of the Constitution of Kenya 2010, which has the Bill of Rights at its core and the development of Kenya Vision 2030, has led to policy

changes. The proposed changes address the constitutional requirements, international commitments (Education for All and Millennium Development Goals) and the national aspirations embodied in Kenya Vision 2030, as well as offer direction for modernizing the country's education system.

The Constitution holds that every child has a right to free and compulsory basic education; and access to affordable tertiary education, training and skills development.

In particular:

Article 10(1) of the Constitution states that the national values and principles of governance are binding on all State organs, State officers, public officers and all persons whenever any of them (a) applies or interprets the Constitution; (b) enacts, applies or interprets any law; or (c) makes or implements public policy decisions.

Article 10(2) of the Constitution sets out the national values and principles of governance. These include *inter alia*, patriotism, national unity, the sharing and devolution of power, the rule of law and the participation of the people; equity, inclusiveness, equality, human rights, non-discrimination and the protection of marginalized groups, good governance, integrity, transparency and accountability, and sustainable development. This has implications on the curriculum which has to be reviewed to reflect the changing operational environment.

Article 11(2) (b) and (c) of the Constitution recognizes the role of science and indigenous technologies in the development of the nation, and the promotion of intellectual property rights of the people of Kenya and promotion of all form of national and cultural expression through literature, the arts, traditional values and celebrations. This also has implications on our education and training curriculum.

Article 21 recognizes the fundamental duty of the State and every state organ to observe, respect, protect, promote and fulfill the rights and fundamental freedoms outlined in the Bill of Rights.

The right to education includes both duties and obligations, which are to be realized immediately and those which are subject to progressive realization. The

obligation to ensure free and compulsory basic education and the prohibition of discrimination in education are, for instance, immediate obligations. These also qualify as ‘**minimum core obligations**’ which apply regardless of availability of resources. On the other hand, most of the obligations relating to the right to education are to be realized progressively according to available state resources.

Articles 20, 35, 42, and 43 of the Constitution state clearly that every person has the right to education. If the State claims that it does not have the resources to implement the right, a court, tribunal, or other authority shall be guided by the principle that it is the responsibility of the State to show that the resources are not available to meet that constitutional right. The State will give priority to factoring in access to education by vulnerable groups or individuals (women, older members of society, persons with disabilities, children, youth, members of minority or marginalized communities, and members of particular ethnic, religious or cultural communities).

Articles 53, 54, 55, 56, 57, and 59 of the Constitution have provisions on children’s right to free and compulsory basic education, including quality services. Access to educational institutions and facilities for persons with disabilities that are integrated into society, to the extent compatible with the interests of the person is another provision. This includes the use of Sign language, Braille or other appropriate means of communication, and access to materials and devices to overcome constraints arising from the person’s disability. There are also provisions on access for youth to relevant education and training; access to employment; participation and representation of minorities and marginalised groups in governance and other spheres of life, special opportunities in educational and economic fields, and special opportunities for access to employment. Managers of institutions must be aware of these provisions that if not properly managed may lead to a breach of the constitution resulting in litigation.

As per **Schedule 4** of the Constitution, functions remaining at the national level shall include: “Education Policy, Standards, Curriculum, Examinations, Granting of University Charters, Universities, Tertiary Educational Institutions, Institutions of Research, Higher Learning and Primary Schools, Special Education, Secondary Schools and Special Education Institutions”. Pre-primary education, village

polytechnics, home-craft centres and childcare facilities shall be the responsibility of County government.

This implies that education will continue to be primarily a national responsibility. This has important implications for National level resource distribution, and the decentralized decision-making.

Chapter 13 and its articles on the Public Service provides for the values and principles of public service. The values include among other professional ethics, effective use of resources, public participation, accountability, transparency and ensuring equal opportunities and fair competition.

4.0 Education and Training Policy and Legal Frameworks

After carrying out education sector analysis, the Ministry identified the following priority areas to be considered for reforms in the medium term:

- (i) Structure of education system from Kindergarten to University, including tertiary educational institutions, institutions of research, special needs education, adult education, village polytechnics, home craft centres and child care facilities
- (ii) Access, equity, quality and transitional issues
- (iii) Institutional management and governance
- (iv) Human resource capacity development
- (v) Research, education and training
- (vi) Information communication technology and other technologies;
- (vii) Moulding and mentorship values
- (viii) Investment in education, both public and private
- (ix) Relevance and responsiveness of the curriculum to Vision 2030
- (x) National assessment system and Kenya National Qualification Framework
- (xi) Teacher Management and Development
- (xii) Education for marginalized and hard to reach children

5.0 Process of Education Designing Reforms

In carrying out its mandate, the Ministry through a Task Force reviewed the education system to align it to the Constitution 2010 and Vision 2030, and proposed strategies to address policy, content and governance issues.

The Task force undertook a detailed situational analysis of the education sector by; reviewing of the Education Act (1968), various commission reports, other relevant policy and legal documents; benchmarking with good practices from countries with national and county governments; receiving submissions made by various stakeholders; holding County, cluster stakeholder consultation forums; analysis of memoranda submitted to the Task Force and consensus building with the political wing.

6.0 Reform Outputs

- a) Draft Education and Training policy framework, 2012
- b) Draft Science, Technology and Innovation policy framework, 2012 to address science and innovation Issues
- c) Basic Education Bill, 2012
- d) Kenya National Examination Bill, 2012
- e) Technical, Vocational Education and Training Bill, 2012
- f) University Bill, 2012
- g) Science, Technology and Innovation Bill (STI), 2012
- h) Kenya National Qualification Framework Bill (KNQF), 2012
- i) Kenya Institute of Curriculum Development Bill, 2012
- j) Teachers Service Commission Bill, 2012

7.0 Major Education Policy and Legal Reforms Thrusts

(i) Basic Education

- a) In line with the bill of rights, mainstream pre-primary into basic education through appropriate funding and address health and nutrition issues including facilitating provision of teachers for that level.

- b) In collaboration with the counties, build and enhance capacity for teachers and all managers of education.
- c) At the primary school level, the curriculum will be reformed to ensure that it is broad based, skills and competency based, promotes national values and allow for automatic progression from one level to the other and from one grade to the other.
- d) At the secondary school level, the curriculum will be reformed to make it competency based and provide for alternative and complimentary learning pathways to ensure that all enrolled learners complete the learning cycle with necessary skills and competences while at the same time pursuing their talents.
- e) Challenges of the marginalized pockets of poverty and hard to reach communities including those with special needs shall be addressed by enhancing targeted and coordinated interventions.
- f) Quality assurance shall be reformed by establishing the Education Standards and Quality Assurance Commission (ESQAC) to spearhead independent and reliable quality assurance and standards services.
- g) The management and efficacy of examinations as well as assessment processes and capacities shall be reformed to enhance learning and teaching policies, thereby realizing learning achievements for all learners.
- h) Teacher education, development and management shall be strengthened by introducing continuous professional development, reviewing teacher education curriculum, teacher management policies, and institutionalization of performance management.
- i) Devolution shall be embraced and both systemic and institutional governance shall be recognized by establishing through provisions in law, management bodies which include National Education Boards, County Education Boards and institutional Boards of Management.
- j) The complimentary role of the private sector in the provision of education and by formulating a public private partnership policy framework in education shall be recognized to address quality, access, equity and relevance issues and mobilize resources for the education sector.
- k) Adult and Continuing Education and Non-Formal Education shall be revamped, gradually formalized and strengthened, and re-engineered through a review of the curriculum as well as prioritization and provision of

sustainable financing mechanisms to ensure lifelong learning and eradicate illiteracy amongst the youth, adults and older members of society.

- 1) The Ministry will institute a financial reporting mechanism for schools to account for the public funds provided.

(ii) TVET

- a) TVET shall be given high priority at the National Economic and Social Council and that strategic leadership in driving TVET sector shall be provided by key ministries and State Corporations;
- b) The Government obligate 3% of national budget to TVET for the purpose of improving access, equity, relevance, quality and rebranding process;
- c) The Government set up and build the capacity TVETA to enable the Authority to coordinate TVET sector;
- d) The Government should mainstream TVET in its student financing and institutional funding mechanisms to achieve maximum impact;
- e) There should be an institution to assess competence and develop responsive curriculum that is flexible in nature and modular based;
- f) Measures should be taken to motivate the private sector to provide technical and financial support to TVET;
- g) Institutional arrangements be established to manage TVET trainers, instructors and lecturers as a strategy towards quality delivery of TVET programmes.

(iii) University Education

- a) The Commission for Higher Education should be restructured and strengthened with an expanded mandate for accreditation, quality improvement and quality assurance in all Kenyan Universities;
- b) Industry and professional bodies should take an active strategic leadership role in ensuring relevance of university education; curriculum driven by needs of Kenyans;
- c) The Differentiated Unit Cost and Discipline Differentiated Remuneration funding models should introduced in public universities to enhance quality

through both rationalized programme funding, and enhanced ability to attract qualified human resource, respectively.

- d) In the near term, Government student grants should awarded based on a combination of national priorities areas, student performance, student choice of programme and university, (public or private). Student grants to be phased out in five years (by 2017) in favour of student loans and/or bursaries made available to all Kenyans receiving University admission, thereby removing finance as a barrier to University Education;
- e) A large number of post-graduate scholarships tenable at all Kenyan universities, should be introduced to significantly increase the number of post-graduate researchers capable of fulfilling the industrial, commercial and national needs as exposed in Vision 2030, as well as to meet the human resource requirements of the rapidly expanding university education sub-sector;
- f) The private sector should be encouraged to actively philanthropically participate in the university education sub-sector by providing incentives such as corporate and personal tax relief, and waiver of stamp duty on donated land, among others;
- g) Top oversight organs of public universities and sub-sector semi-autonomous government agencies should be streamlined to provide lean, efficient and effective structures as well as broad representation to ensure all public institutions have a national outlook.

(iv) Kenya Qualifications Framework

The Government shall establish the Kenya Qualifications Framework Authority (KQFA) to -

- a) Regulate the structuring and coordinate the integrity issue of national qualifications in Kenya;
- b) Develop a national system for credit transfer to support multi-tracking of education and training for multiple pathways of progression as well as recognition and equation of qualifications obtained from different systems;
- c) Provide a mechanism for assessment and certification of prior learning, talent and experience to alleviate the permanent-casual-worker phenomenon in Kenya; and

- d) Manage civic education, communication and advocacy programmes for enhancing citizen literacy on qualifications issued by various awarding authorities operating in Kenya.

(v) Science, Technology and Innovation (ST&I)

- a) The government shall establish the National Commission of Science, Technology and Innovation and its support bodies namely:
- b) Kenya National Innovation Agency
- c) Kenya National Research Fund
- d) Funding of Research:
- e) Currently it is estimated that the Government allocates approximately 0.48%. Agreed that at least 2% of GDP be allocated for competitiveness.
- f) Co-ordination of Research under NCST&I:
- g) Need for registration of Research Institutes and evaluate the needs, status and results of research funded by the fund
- h) Provide financial support for participation in international scientific activities through maintaining membership of appropriate international science organizations
- i) Government to set up ST&I office in parliament:
- j) In order to provide advisory support to the Legislature on issues on ST&I, there is need to set up an ST&I office in Parliament and at County level;
- k) Government to set up and support ST&I diplomacy attaches in strategic countries:
- l) In order to have a competitive edge on issues of ST&I and in order to gain on advancement in this area, there is need to post science attaches who will scout for technologies which could be adopted by the country on a need by basis. The same offices will tap in into diaspora expertise on ST&I;
- m) We need to demystify Science and Technology at all levels and creation of Science Centres in Counties;
- n) Setting up a Framework for Support of ideas on Innovation to Commercialization of the products.

(vi) Kenya Institute of Curriculum Development (KICD)

- a) Establishment of county offices by entrenching such offices;
- b) Mainstream the Curriculum Development Institute has not had a facility to enhance development of curricula, in terms of laboratories (for sciences and languages) and workshops. The Institute wishes to appeal for support of Parliament in putting up an Education Resource Centre. This will ensure learners will have a solid foundation for Science, Technology and Innovation, and Technical and Vocational Education and Training;
- c) Parliament facilitate the Institute to establish County offices by entrenching such offices in devolution planning;
- d) Parliament to prioritize curriculum reform as a trigger for the much anticipated changes, for example, implementing Article 10 of the Constitution on National Values, by funding KICD to reform curricula.

(vii) Kenya National Examination Council (KNEC)

- a) Ensure that managers and all those who support in administration and management of all national examination cannot go on strike when the examination are being conducted and done;
- b) KNEC play a very important role in testing and assessment by ensuring quality education, measuring selection in realization of the Vision 2030 in the Education Sector. KNEC would like that the forthcoming National Examinations scheduled for October/November 2012 be administered and managed under the new bill legal framework to comply with the provisions of the new constitution 2010 of the Republic of Kenya.

8.0 Summary of Key Education Achievements

1. Since the introduction of Free Primary Education (FPE) in 2003, enrolment has short from 5.9 million to 9.4 million in 2012.
2. The introduced Free Day Secondary Education in 2008 has seen a rise in enrolment from 800,000 to 1.7 million students in 2011.
3. Development and dissemination of the HIV and AIDS education sector's policy;

4. Integration of HIV and AIDS education into a core subject has contributed to increased knowledge among learners;
5. Development of Life skills curriculum for primary, secondary and teacher education;
6. The Government has developed a Policy Framework for Nomadic Education in Kenya to provide guidelines for the coordination and harmonization of efforts in delivery of educational services for the nomadic communities.
7. The Ministry is implementing the National Special Needs Education Policy Framework of 2009 to target learners with physical, visual, hearing, speech and autistic challenges among others.

Education is undoubtedly, one of the fundamental factors of development and investing in it is a major component of Africa's development strategy. Increase in the quantity and quality of educational provision has been associated with a wide range of benefits.

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10. Teachers Service Commission Bill, 2012
11. Technical, Vocational Education and Training Bill, 2012
12. University Bill, 2012