REPUBLIC OF KENYA

REPORT OF THE PRESIDENTIAL WORKING PARTY ON EDUCATION REFORM

TRANSFORMING EDUCATION, TRAINING AND RESEARCH FOR SUSTAINABLE DEVELOPMENT IN KENYA

Chairman, Presidential Working Party on Education Reform
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Presented to

His Excellency,
Hon. Dr. William Samoei Ruto, PhD, C.G.H.

President of the Republic of Kenya and Commander-in-Chief of the Defence Forces

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His Excellency Hon. William Samoei Ruto, PhD, C.G.H.,
President of the Republic of Kenya and Commander-in-Chief of the Defence Forces
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NAIROBI.

Your Excellency,

RE: SUBMISSION OF THE REPORT OF THE PRESIDENTIAL WORKING PARTY ON EDUCATION REFORM

We, the members of the Presidential Working Party on Education Reform (PWPER), appointed on 29th September 2022 by Your Excellency through Gazette Notice No. 11920, respectfully submit the Report covering all the Terms of Reference and titled, ***Transforming Education, Training and Research for Sustainable Development in Kenya.*** In this Report, the PWPER makes recommendations after extensive public participation, careful deliberations and national validation by key stakeholders touching on the whole spectrum of our education, training and research space.

In this assignment, Your Excellency, PWPER received oral and written submissions from Kenyans from all walks of life across all the 47 Counties of the Republic and Kenyans in the diaspora. They included ordinary citizens, community leaders, trade unions, traders in the informal sector, and public and private educational institutions, with various groups representing a broad spectrum of interests. In addition, the County public participation hearings were interactive and useful.

On 1st December 2022 and 29th March 2023, PWPER submitted to Your Excellency Interim Reports on certain critical issues, which in our view, required urgent attention and could not wait until we completed this Report. Those issues are, however, comprehensively covered in this Report.

In making our recommendations, Your Excellency, we considered the country's economic position and future outlook. We have also outlined an implementation strategy that, with sustained commitment, would deliver the National Goals of Education and enable the country to realise the much-needed societal transformation. It is our conviction that implementation of the recommendations contained herewith will undoubtedly place Kenya on the right trajectory to address the challenges and goals of the 21st Century and beyond, focused on the best practice across the globe.

The PWPER is grateful for the opportunity, Your Excellency, to serve our beloved country in this very important and generational national assignment.

Accordingly, we submit this Report.

We remain,

Your Excellency's most obedient servants,

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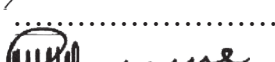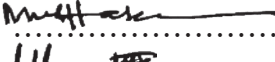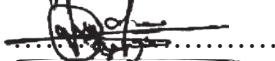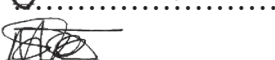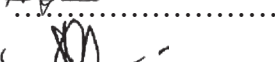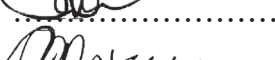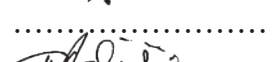
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PWPER is grateful to the Cabinet Secretary Hon. Ezekiel Machogu, the Principal Secretary for the State Department for Basic Education, Dr. Belio Kipsang, the Principal Secretary for the State Department for Technical Vocational Education and Training (TVET), Dr. Esther Thaara Muoria and the Principal Secretary for the State Department for Higher Education and Research, Dr. Beatrice Muganda Inyangala, and the entire staff of the Ministry of Education for their intellectual input and logistical support. The PWPER is also grateful to the immediate former Education Cabinet Secretary, the late Prof. George Magoha, for the initial engagements. In addition, the PWPER acknowledges the contribution of the National Assembly, the National Treasury, the Ministry of Interior and National Administration and other Ministries, Departments and Agencies.

PWPER is indebted to the Governors, Members of County Assemblies and the County government staff for their support and participation during the County stakeholder engagements. The PWPER also appreciates members of the public, teachers, parents, learners, political leaders, unions, professional groups, Faith-Based and Civil Society organisations, the private sector, researchers, and Kenyans in the diaspora for their participation.

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Finally, PWPER appreciates the invaluable support received from the Centre for Mathematics, Science and Technology Education in Africa (CEMASTEA), which hosted its operations and the Kenya Literature Bureau (KLB) and its officers for editorial support. In addition, the team is indebted to all members of the Secretariat (Appendix P1) for going beyond their call of duty to enable PWPER to execute its mandate.

TABLE OF CONTENTS

CHAPTER TWELVE: CROSS-CUTTING, PERTINENT AND CONTEMPORARY ISSUES IN EDUCATION 183

CHAPTER THIRTEEN: IMPLEMENTATION OF PWPER RECOMMENDATIONS.. 198

BIBLIOGRAPHY 222

APPENDICES.. 235

LIST OF TABLES

LIST OF FIGURES

ABBREVIATIONS AND ACRONYMS

ACBS	—	Academic Credit Bank System and Social Affairs
ACE	—	Adult and Continuing Education
ACHPR	—	African Charter on Human and Peoples' Rights
ACMI	—	African Carbon Markets Initiative
ACRWR	—	African Charter on the Rights and Welfare of the Child
ADB	—	Asia Development Bank
AG	—	Attorney General
AI	—	Artificial Intelligence
APBET	—	Alternative Provision of Basic Education and Training
AQF	—	Australian Qualifications Framework
ASAL	—	Arid and Semi-Arid Lands
ATECA	—	Adult Teacher Education Certificate Authority
B.Sc.	—	Bachelor of Science
BA	—	Bachelor of Arts
BECF	—	Basic Education Curriculum Framework
BoM	—	Board of Management
CA	—	Class Assessment
CAP	—	Content Access Point
CATS	—	Credit Accumulation and Transfer System
CBAF	—	Competency-Based Assessment Framework
CBC	—	Competency-Based Curriculum
CBE	—	Competency-Based Education
CbE	—	Curriculum-based Establishment
CBET	—	Competency-Based Education and Training
CBTA	—	Competency-Based Teacher Assessment
CBTE	—	Competency-Based Teacher Education
CDACC	—	Curriculum Development Assessment and Certification Council
CDE	—	County Director of Education
CEB	—	County Education Board
CEC	—	County Executive Committee
CEDAW	—	Convention on the Elimination of All Forms of Discrimination Against Women
CEMASTEA	—	Centre for Mathematics, Science and Technology Education in Africa
CEO	—	Chief Executive Officer
CERD	—	Convention on the Elimination of all Forms of Racial Discrimination
CESA	—	Continental Education Strategy for Africa
CIC	—	Commission for the Implementation of the Constitution
CLC	—	Community Learning Centre
COG	—	Council of Governors
COVID-19	—	Corona Virus Disease-2019

CPA	—	Certified Public Accountant
CPCIs	—	Cross cutting, Pertinent and Contemporary Issues
CRA	—	Commission on Revenue Allocation
CRC	—	Convention on the Rights of the Child
CRPD	—	Convention on the Rights of Persons with Disabilities
CRRF	—	Comprehensive Refugee Response Framework
CSL	—	Community Service Learning
CSO	—	Curriculum Support Officers
CSSAVE	—	Child Safety and Security Against Violence & Extremism
CTPD	—	Continuous Teacher Professional Development
CTS	—	Career and Technology Studies
CTVET	—	Commission for Technical and Vocational Education and Training
CUE	—	Commission for University Education
DECTE	—	Diploma in Early Childhood Teacher Education
DG	—	Director General
DHET	—	Department of Higher Education and Training
DLP	—	Digital Literacy Programme
DPTE	—	Diploma in Primary Teacher Education
DQAS	—	Directorate of Quality Assurance and Standards
DTE	—	Diploma Teacher Education
DUC	—	Differentiated Unit Cost
EARCs	—	Education Assessment and Resource Centres
EASNIE	—	European Agency for Special Needs and Inclusive Education
EAT	—	Education Appeals Tribunal
EFA	—	Education For All
EMIS	—	Education Management Information System
ESD	—	Education for Sustainable Development
ESQAC	—	Education Standards and Quality Assurance Council
ETF	—	European Training Foundation
EWC	—	Electricity, Water and Conservancy
EYE	—	Early Years Education
FBOs	—	Faith-Based Organisations
FCDO	—	Foreign, Commonwealth & Development Office
FDA	—	French Development Agency
FDSE	—	Free Day Secondary Education
FET	—	Further Education and Training
FPE	—	Free Primary Education
GAA	—	General Appropriations Act
GDP	—	Gross Domestic Product
GoK	—	Government of Kenya
GSS	—	Government Sponsored Students
HEAQAB	—	Higher Education Accreditation and Quality Assurance Board
HELB	—	Higher Education Loans Board
HRM	—	Human Resource Management
HRMP	—	Human Resource Management Professionals

ICCPR	—	International Covenant on Civil and Political Rights
ICESCR	—	International Covenant on Economic, Social and Cultural Rights
ICT	—	Information and Communication Technologies
IEC	—	Information Education and Communication
IHRM	—	Institute of Human Resource Management Kenya
ILO	—	International Labour Organisation
IRBs	—	Institutional Review Boards
JKF	—	Jomo Kenyatta Foundation
JKUAT	—	Jomo Kenyatta University of Agriculture and Technology
JS	—	Junior School
JSS	—	Junior Secondary School
CBC	—	Competency-Based Curriculum
KATTI	—	Kenya Association of Technical Training Institutions
KCPE	—	Kenya Certificate for Primary Education
KCSE	—	Kenya Certificate of Secondary Education
KEMI	—	Kenya Education Management Institute
KEMIS	—	Kenya Education Management Information System
KENET	—	Kenya National Education Network
KENIA	—	Kenya National Innovation Agency
KESSP	—	Kenya Education Sector Support Programme
KeSTEM	—	Kenya School of Teacher and Education Management
KeTTC	—	Kenya Teachers Training College
KEYA	—	Kenya Early Years Assessment
KIB	—	Kenya Institute for the Blind
KICD	—	Kenya Institute of Curriculum Development
KIHBT	—	Kenya Institute of Highway and Building Technology
KIPPRA	—	Kenya Institute for Public Policy Research and Analysis
KISE	—	Kenya Institute of Special Needs
KLB	—	Kenya Literature Bureau
KMTC	—	Kenya Medical Training College
KNATCOM	—	Kenya National Commission for UNESCO
KNBS	—	Kenya National Bureau of Statistics
KNEC	—	Kenya National Examinations Council
KNQA	—	Kenya National Qualifications Authority
KNQF	—	Kenya National Qualifications Framework
KNUT	—	Kenya National Union of Teachers
KPSEA	—	Kenya Primary School Education Assessment
KRA	—	Kenya Revenue Authority
KSL	—	Kenyan Sign Language
KS-TVET	—	Kenya School of TVET
KTTC	—	Kenya Technical Trainers College
KUCCPS	—	Kenya Universities and Colleges Central Placement Service
LDD	—	Learner Digital Devices
LGU	—	Local Government Units
MDAs	—	Ministries, Departments and Agencies

MDGs	—	Millennium Development Goals
MDTI	—	Multipurpose Development Training Institute
MDUC	—	Maximum Differentiated Unit Cost
MMUST	—	Masinde Muliro University of Science and Technology
MoE	—	Ministry of Education
MoEST	—	Ministry of Education, Science and Technology
MOLISA	—	Ministry of Labour – Invalids and Social Affairs
MoU	—	Memorandum of Understanding
MQA	—	Malaysian Qualifications Agency
MTI	—	Means Testing Instruments
NACOMACE	—	National Council for Marginalised Communities in Education
NACONEK	—	National Council for Nomadic Education in Kenya
NACOSTI	—	National Commission for Science Technology and Innovation
NACTE	—	National Council for Technical Education
NACTVET	—	National Council for Technical and Vocational Education and Training
NCEC	—	National Centre for Education Statistics
NCTE	—	National Council for Tertiary Education
NEB	—	National Education Board
NEQASF		National Education Quality Assurance Standards Framework
NGAO	—	National Government Administration Office
NG-CDF	—	National Government Constituency Development Fund
NHREC	—	National Health Research Ethics Council
NITA	—	National Industrial Training Authority
NP	—	National Polytechnics
NQF	—	National Qualifications Framework
NRC	—	National Research Centre
NRF	—	National Research Fund
NSSF	—	National Social Securities Fund
NYS	—	National Youth Service
ODeL	—	Open, Distance and Electronic-Learning
OECD	—	Organisation for Economic Cooperation and Development
OERs	—	Open Education Resources
OfS	—	Office for Students
OVEC	—	Office of the Vocational Education Commission
PCIs	—	Pertinent and Contemporary Issues
PE&E	—	Parental Empowerment and Engagement
PGDE	—	Post-Graduate Diploma in Education
PhD	—	Doctor of Philosophy
PPP	—	Public Private Partnership
PSC	—	Public Service Commission
PSSBS	—	Presidential Secondary Schools Bursary Scheme
PTA	—	Parents Teachers Association
PWPER	—	Presidential Working Party on Education Reform
QASO	—	Quality Assurance and Standards Officer
R&D	—	Research and Development

RMO	—	Resident Medical Officers
SAGAs	—	Semi-Autonomous Government Agencies
SAMR	—	South African Medical Research
SAQA	—	South African Qualifications Authority
SBA	—	School Based Assessment
SCDE	—	Sub-County Director of Education
SDG	—	Sustainable Development Goal
SEE	—	Signing Exact English
SEPU	—	School Equipment Production Unit
SNE	—	Special Needs Education
SRC	—	Salaries and Remuneration Commission
SRH	—	Sexual and Reproductive Health
SS	—	Senior School
STEM	—	Science Technology Engineering and Mathematics
STI	—	Science, Technology and Innovation
STISA	—	Science, Technology and Innovation Strategy for Africa
TAHEST	—	Taskforce on Higher Education Science and Technology
TCAE	—	Teacher Certificate in Adult Education
TCPD	—	Teacher Continuous Professional Development
TCU	—	Tanzania Commission for Universities
TDD	—	Teacher Digital Devices
TEP	—	Technical Education Programmes
TESDA	—	Technical Education and Skills Development Authority
TEVETA	—	Technical, Entrepreneurial and Vocational Education and Training Authority
TNT	—	The National Treasury
ToR	—	Terms of Reference
TSC	—	Teacher Service Commission
TTC	—	Teacher Training Colleges
TVC	—	Technical and Vocational College
TVEF	—	Technical and Vocational Education Fund
TVET CDACC	—	Technical and Vocational Education and Training Curriculum Development, Assessment and Certification Council
TVET	—	Technical and Vocational Education and Training
TVETA	—	Technical and Vocational Education and Training Authority
TVETF	—	Technical and Vocational Education Training Fund
UASU	—	University Academic Staff Union
UCBEF	—	University Competency-Based Education Framework
UFB	—	Universities Funding Board
UGC	—	University Grants Commission
UKRI	—	United Kingdom Research and Innovation
UNESCO	—	United Nations Educational, Scientific and Cultural Organisation
UNEVOC	—	UNESCO Vocational Education
UNISA	—	University of South Africa
UPI	—	Universal Personal Identifier

VbE	—	Values-based Education
VE	—	Vocational Education
VT	—	Vocational Training
VTC	—	Vocational Training Centres
WASH	—	Water, Sanitation and Hygiene
WBL	—	Work-Based Learning
WIL	—	Work-Integrated Learning
WSA	—	Whole School Approach

OPERATIONAL DEFINITION OF TERMS

Andragogy — The art and science of helping adults learn and which can also be used to facilitate learning among out of school children with flexibility.

Chaplaincy — Religious support programmes.

Community Service Learning — Engaging learners in meaningful learning experiences through active participation in activities geared towards addressing real life challenges in their communities by applying skills and knowledge acquired in the learning process.

Concurrent model — Where the disciplinary content knowledge is taught alongside the educational and pedagogical studies throughout a long pre-service preparation period.

Consecutive model — Where the pedagogical studies are taught after candidates have obtained either a Bachelor of Arts or Bachelor of Science academic degree in subjects taught in schools.

Lifelong Learning — Any kind of policy designed and implemented by government and other stakeholders to create learning opportunities for all ages.

Marginalised Areas — Arid and Semi-Arid Lands (ASAL) and informal settlements.

Microteaching — Peer to peer teaching either among teacher trainees or practicing teachers to enhance/improve their teaching skills by practising a variety of teaching techniques.

Parent — Includes a biological parent, guardian, caregiver and any other adult within the learners' environment.

Parental Empowerment — Involves equipping the parents or caregivers with knowledge, skills and attitudes in order to become more actively involved in their children's holistic development including learning in and out of school.

Parental Engagement — Entails the active participation of parents in their children's learning and holistic development in collaboration with teachers and other stakeholders.

Retooling — Re-training practicing teachers or teachers entering the teaching profession to enhance/improve their Technological-Pedagogical-Content Knowledge.

Tertiary education — All formal post-Basic Education, including middle level colleges (vocational training centres, technical and vocational colleges, national Polytechnics, teacher training colleges), and public and private Universities.

Values-Based Education — An educational process which enables children to develop their personal capacity to be ethically self-led, thereby developing their personal and social capacity to live wisely and affect society positively.

Whole School Approach — Engagement of every member of the school community including the leadership, parents, teachers, support staff, learners and community.

Introduction

This Executive Summary presents the highlights of the findings and recommendations of the Presidential Working Party on Education Reform (PWPER) in order to address concerns of access, relevance, transition, equity, governance, finance and quality in education, training and research. The Report — **Transforming Education, Training and Research for Sustainable Development in Kenya** — is premised on the effective implementation of Competency — Based Education that promotes an individual's wellbeing and acquisition of capabilities, skills and values in order to contribute meaningfully to the economy and society at large.

It is time for Kenya to adopt innovative policy practices, approaches and education governance systems that ensure all learners are equipped with skills, knowledge and values that provide them an opportunity to thrive in the 21st Century.

In transforming her education for sustainable development, Kenya must reform her education institutions, harness digital revolution, and adopt creative ways of teaching and learning. Further, the sector should strive to develop skills by revitalising research, innovation and intellectual property in TVET and University Education.

His Excellency, the President of the Republic of Kenya, Dr. William S. K. Ruto, appointed the PWPER on 29th September, 2022 with Terms of Reference covering both Basic and Tertiary Education. The appointment was informed by concerns raised by the public on the implementation of Competency-Based Curriculum as well as the general need to carry out reform in the entire Education sector in line with the Kenya Kwanza Education Manifesto and the Party's Education Charter.

Kenya has made great strides in provision of quality education, making it a top performer in the Eastern and Southern Africa region. The Constitution of Kenya provides for education as a constitutional right for all. Education reform aims at the improvement of the country's human capital index and quality of life. Further Kenya has remained committed to the United Nations' SDG4 that aims at ensuring inclusive and equitable education that promotes lifelong learning opportunities for all.

The implementation of CBC started in 2017. Implementation of CBC has faced challenges of curriculum overload and overlaps; low parental engagement; low attainment of learning outcomes; inadequate infrastructure and learning materials; and inconsistencies and ambiguities in law causing conflicts. Other challenges include high number of out-of-school learners; inadequacy of teacher capacity; underfunding; and failure to fully address factors that exclude some categories of learners like the marginalised groups, learners with special needs and adult and continuing education. Similarly, challenges of governance, funding and relevance of academic programmes have been experienced at the Tertiary level. It is against this backdrop that Kenya has continuously made great investments in the education sector.

Methodology and Approach

To address the Terms of Reference (ToR), the PWPER established three committees and nine sub-committees. Each of these was tasked to focus on particular parts of the ToR and the progress reports of the teams would be discussed by the plenary. The Working Party collected and analysed data using various instruments and methods; reviewed relevant literature including policy documents, strategic plans, research reports, reports by past taskforces and commissions, and education sector data; and derived the recommendations.

The PWPER collected data from the public including Kenyans in the diaspora by way of both physical and digital submissions; and listening to the stakeholders' views in Town hall meetings at county level. Submissions were received from learners, teachers, parents, faith-based organisations, youth, teachers' associations, workers' unions, civil society, academia, private sectors, elected leaders and development partners among others. Further, there were interviews and Focus Group Discussions with key stakeholders and relevant representatives of government ministries, departments and agencies. The PWPER undertook national validation exercise involving representatives of stakeholders in compliance with the letter and spirit of the Constitution of Kenya.

Findings on Basic Education

The PWPER commenced its work when the implementation of CBC was completing the Primary School cycle (Grade 6). The stakeholders acknowledged the value of CBC in terms of skills acquisition, collaborative action among learners, new pedagogy, linking learning to the community, and parental involvement. However, stakeholders raised concerns on the high number of learning areas in Primary and Junior Secondary school; overloads and overlaps of the curriculum; high cost of actualizing CBC passed to parents; challenges of internet and electricity connectivity that negatively affected digital literacy; and low literacy and numeracy levels for foundational learning.

In addition, the domiciling of Junior Secondary School was raised as an issue of concern across the counties with an overwhelming majority (93%) proposing its hosting at the current Primary School. Majority of stakeholders pointed that teachers were inadequately trained on CBC; infrastructure and learning resources were inadequate; parallel roles and structures by the TSC and MoE jeopardised quality assurance and efficiency; categorisation of public Secondary schools promoted exclusion; and that key tenets guiding CBC were not fully mainstreamed in all the dimensions of learning. Further there was inadequate sensitization of parents on their roles; teacher training for CBC implementation was inadequate, the Community Service Learning, though great in concept, its implementation remain costly and time consuming.

The findings showed that EMIS did not capture data for all school-age children, those above 18, and students in Tertiary and vocational institutions. The governance of Pre-school introduced bottlenecks with both national and county governments playing a role without a clear working framework. The Boards of management were bloated causing a financial strain to schools. The Indigenous and Foreign languages

lacked teachers and textbooks in school denying learners opportunities to pursue them. The career pathways at Senior School was not well understood especially how learners would be placed. In general, the stakeholders opined that CBC provided learners with relevant competencies and values for life. However the challenges of implementation threatened to wipe out the gains.

Findings on Tertiary Education

Education reform at the Tertiary level is driven by national development imperatives and the demand of the socio-economic enterprises and industry.

Technical and Vocational Education and Training (TVET) has the potential to spur rapid economic growth using modern technologies; and commits the youthful population into employment that yield innovations and enterprises. To realise the full benefits of TVETs, certain interventions need to be put in place to address the following: Lack of a clear framework and structures to operationalise partnerships and linkages between institutions and industry; recognition of prior learning to promote lifelong learning; operationalisation of credit accumulation and transfer; lack of career progression and transfer guidelines for trainees; embracing apprenticeship as part of TVET learning; and low support and involvement of Special Needs Education in TVET. The current governance and funding arrangement of Vocational Training Centres (VTCs) impede their growth and quality of output.

Kenya has experienced phenomenal growth in University education since Independence, currently having 78 Universities. However, there are critical issues bedeviling the performance of the Universities as evidenced by low Global University rankings; low enrolment of international students; and weak structures of governance and funding. The composition of University Councils; appointment of Chancellors, Vice-Chancellors and top management; quality of research output and innovation; and operationalisation of an Open University are critical areas of concern, if the Kenyan Universities are to remain globally competitive, and industry-responsive. The stakeholders proposed a review of the governance structure of the student councils and welfare issues of the non-teaching staff.

It was further observed that the existence of several bodies and government agencies with overlapping mandates contributes to multiplicity of standards and qualifications leading to wastage and inefficiencies. There exists ambiguities, inconsistencies and constraints in various legislation that create loopholes for multiple allocation of funds to the same beneficiaries at the expense of others; poor employer-employee relations; non-operationalisation of policies and guidelines; conflicts due to weak governance structures; and compromise of quality of service delivery.

The education sector does not operate in a vacuum, but is influenced by many external factors. The PWPER scanned the horizon on a raft of cross-cutting issues, pertinent and contemporary, that have potential to impact on education. The issues of climate change; appreciation and integration of indigenous knowledge; internationalisation of University education; and proper utilisation of the widening digital space must inform education reform. There is need to curb the rising cases of teenage pregnancies; early marriages; radicalisation and extremism; drug and

substance abuse; and students' unrest and bullying. Education reform need to promote mental health; appreciation and care of the environment; inculcation of values; and preparedness in emergencies and disasters.

Conclusion and Recommendations

On the basis of these findings, the PWPER concludes that effective implementation of Competency-Based Curriculum at all levels of education provides a strong foundation for transforming education, training and research for sustainable development in Kenya. The key recommendations include:

1. Ministry of Education to adopt a Comprehensive School system (PP1 — Grade 9) comprising Pre-Primary, Primary school and Junior School managed as one institution. The term "Secondary" be dropped from the current Junior Secondary and Senior Secondary School.

2. Kenya should prioritise investing in foundational learning to avert future crisis in education. Basic literacy, numeracy and transferable skills such as social, emotional skills ensures essential blocks for acquiring higher order skills.

3. Kenya Institute of Curriculum Development (KICD) to reduce the number of learning areas from 9 to 7 at Lower Primary; 12 to 8 at Upper Primary; 14 to 9 at Junior School in order to address overload and overlaps. The learning areas at Pre-Primary to be 5 and at Senior School to be 7.

4. Ministry of Education to discontinue the current categorisation of public Secondary schools as National, Extra-county, County and Sub-county; and adopt a categorization based on career pathways for Senior schools.

5. Rename Education Management Information System (EMIS) to Kenya Education Management Information System (KEMIS); and the Ministry of Education in collaboration with the Ministry of Interior and National Administration to integrate registration of births and to capture students in tertiary and vocational institutions as well as school-age learners who are out of school.

6. The Ministry of Education to establish Kenya School of Teacher and Education Management (KeSTEM) to coordinate In-service training; and Kenya Teacher Training College (KeTTC) to undertake administration of all Pre-service Teacher Training.

7. To resolve overlapping mandate in Quality Assurance and Standards function in Basic Education, transfer the Quality Assurance and Standards functions at TSC to the Ministry of Education. In addition strengthen the Directorate of Quality Assurance and Standards at the State Department of Basic Education.

8. In order to attract, develop and retain effective teachers, there be a one-year mandatory retooling program for all graduates of pre-service training to be CBC-compliant; and a one-year mandatory internship program upon completion of pre-service training before being registered into the teaching profession.

9. Implement a minimum essential package to cushion schools with enrolment below the optimum level. The recommended amounts are Ksh. 70,200 for Pre-Primary; Ksh. 537,120 for Primary level; Ksh. 2,030,805 for Junior School; Ksh. 3,041,145 for Senior School; and Ksh. 1,890,000 for Special Needs Education.

10. Implement revised capitation in view of the realities of CBC as follows: Ksh 1,170 for Pre-Primary; Ksh. 2,238 for Primary level; Ksh. 15,043 for Junior School; Ksh. 22,527 for Senior School (Day); Ksh. 19,800 for SNE (Day) and Ksh. 38,280 for SNE (Boarding); and consider increasing the grant for ACE. The capitation and grants to be reviewed every three years.

11. Coordinate the management of bursaries and scholarships under the Kenya Basic Education Bursaries and Scholarship Council as a successor to the Jomo Kenyatta Foundation.

12. The Ministry of Education to develop guidelines for accelerated education programs for marginalised groups, learners with special needs and adult and continuing education, to enhance equitable access and inclusion.

13. Institutionalise linkages of TVETs with industries and government projects; and develop pathways for continuity between TVET and Universities and vice versa.

14. Adopt a sustainable financing model for University education that combines grants/scholarship, loans and household contributions for differentiated categories of students as vulnerable, extremely needy, needy and less needy in order to address equitable access and inclusion in education.

15. Enact the proposed Tertiary Education Placement and Funding Bill to amalgamate HELB, UFB and TVET Fund to enhance efficiency in higher education funding.

16. National Government and County Governments to develop a financing framework for ring-fencing resources for VTCs.

17. The Government to operationalise the Open University in Kenya with the first cohort of students being admitted in September, 2023.

18. To strengthen governance of the University sector, undertake amendments to the Universities Act to amongst others, exclude Public Service Commission (PSC) in the appointment process of Chancellors, provide for a selection panel in the appointment of Chancellors and Council members, and empower Councils to be responsible for appointment of Vice-Chancellors and other top management of Universities.

19. Institutionalise environmental conservation and climate change action in all learning institutions.

20. Introduce a mandatory three (3) months community service programme for graduates of Senior School before joining Tertiary institutions and a further

nine (9) months of mandatory community service after completion of Tertiary education. A certificate of compliance to the community service to be issued as proof before admission into the world of work.

21. Government of Kenya to develop internal capacity of KNEC to print national assessments.

The rest of the recommendations are contained at the end of each chapter.

In order to effectively implement the recommendations in this Report, it is recommended that there be established a Committee to be known as ***Ministerial Education Reform Implementation Advisory Committee (MERIAC)***. The membership of the committee shall include representation from the PWPER to provide institutional memory. The mandate of the committee shall be spelt out by the Cabinet Secretary, Ministry of Education.

CHAPTER ONE

INTRODUCTION

1.1   Background

The Presidential Working Party on Education Reform (PWPER) was formed by His Excellency the President of Kenya vide Gazette Notice No. 11920 of 29th September 2022 to address concerns raised by the citizenry on the implementation of Competency-Based Education (CBE), governance, financing, equity and inclusion in education. The PWPER was also required to propose mechanisms to better align Kenya's education to the United Nations (UN) Sustainable Development Goals, the African Union (AU) Agenda 2063, The Kenya Vision 2030 and the Constitution of Kenya. The PWPER is the third presidential working party tasked with educational reforms, the other two being the Presidential Working Party on Establishment of a 2nd University (1981) and Presidential Working Party on Education and Manpower Training for the Next Decade and Beyond (1988).

The Government introduced CBE in Kenya in 2017 following findings of the summative evaluation of the 8-4-4 system (KICD 2009), a Needs Assessment Survey (KICD 2016), recommendations from previous Education Taskforces as well as regional and global trends. These findings revealed that the 8-4-4 system focused largely on academics and rote learning, thus denying learners opportunities to develop critical skills and values necessary for character formation. In addition, the evidence pointed to curriculum overloads and overlaps as well as inadequate infrastructure to develop skills through practical approaches.

The Reports also recommended reforms of the entire curriculum and education structure with emphasis on the development of relevant competencies, including 21st Century skills, values for character formation, psychosocial competencies, provision of infrastructure, adoption of learner-centred pedagogies and restructuring the examination process.

The implementation of the CBE has, however, experienced challenges. Overall, parents and other stakeholders have expressed concern with respect to curriculum overload, cost, inequalities, parental roles, teacher preparedness, governance, provision of teaching and learning materials and infrastructure to facilitate a seamless transition across the various levels of education. The public also raised these education issues during the 2022 General Elections. It is against this background that the PWPER was formed to address challenges in Basic and Tertiary education and training in Kenya. The Terms of Reference that guided the work of the PWPER are provided in Table 1.1.

Table 1.1: Terms of Reference (ToR) for Presidential Working Party on Education Reforms

1. On Basic Education:

(a) To cause and undertake a summative evaluation of Kenya's Competency-Based Curriculum;

(b) To assess and recommend an appropriate structure to implement the Competency-Based Curriculum;

(c) To study all laws governing the basic education subsector and make recommendations for review of these legislations with a view to addressing duplication, ambiguities, efficiency constraints and improving linkages;

(d) To study, assess and make recommendations on:

(i) the conceptualisation and implementation of key tenets guiding the Competency-Based approach, including but not limited to Value-based Education (VbE), community service learning, parental empowerment and engagement;

(ii) the assessment and examination framework;

(iii) the quality assurance and standards framework;

(iv) the teacher education and training framework for both pre-service and in-service;

(v) the teacher deployment framework;

(vi) the technology for curriculum delivery, improved learning outcomes and education management;

(vii) The governance mechanisms of learning institutions and sharing of resources across schools and TVET institutions to ensure maximum utilisation of public resources for improved learning outcomes; and

(viii) The public-school categorisation policies and implications on access, transition and cost.

(e) To review and recommend appropriate financing frameworks, including capitation and minimum essential package grants for all levels of basic education.

(f) To review and recommend equitable access to education, especially for those facing social, economic and geographic marginalisation, vulnerable populations, children and persons with special needs;

(g) To review and recommend an appropriate framework for the management and coordination of bursaries and scholarships for Secondary school students;

(h) To review and recommend a framework for physical and e-infrastructure development and coordination of public-private partnerships for improved access and quality provision; and

(i) To review and recommend a tracking system to capture and enrol children of school age to ensure universal access to Pre-Primary, Primary and Secondary education.

2. **On Tertiary and University Education:**

   (a) To review and recommend a governance and financing framework for TVET training and development, University education, research and training;

   (b) To study all laws governing the Tertiary education subsector and make recommendations for review of these legislations with a view to streamlining effectiveness and efficiency in the subsector;

   (c) To recommend a framework for operationalising the National Open University of Kenya and a framework on Open, Distance and e-Learning (ODeL);

   (d) To make recommendations for streamlining continuity in TVET and University education transition;

   (e) To review and recommend legislation to facilitate the amalgamation of HELB, TVET and University Funding Boards with a view of harmonising and merging all Tertiary education funding entities.

This Reform in Kenya's education sector is in line with emerging global trends in education. Many countries continually review their education systems to ensure that they are suited for a rapidly changing world and to address their context-specific challenges. Thus, Kenya is reforming its education to lay a strong foundation for human capital development suited for transformation and innovation in a globalised and competitive world. The PWPER's work also seeks to build on the achievements and trends in the education sector.

1.2 Education Sector Trends

1.2.1 Global Trends

Education reforms globally are driven by the need to improve the accessibility, quality, and relevance of education. One prominent theme in these reforms is the shift towards Competency-Based Education. Competency-Based Education aims to equip students with the capabilities needed for success in the 21st Century, such as critical thinking, problem-solving, and collaboration. In response to advancements in digital technologies, reforms are also addressing the integration of technology in education to enhance teaching and learning. The integration of technology in education can support personalised learning, provide access to educational resources, promote digital literacy skills, and facilitate communication and collaboration among students and educators.

In the basic education sub-sector, the focus worldwide is on inclusive education and the provision of equitable access to quality education for all learners. This involves addressing barriers to education faced by marginalised groups, promoting inclusive practices, and supporting students with disabilities. For example, in the United Kingdom, the Government has introduced a range of measures to support students with Special Educational Needs and Disabilities (SEND), including increased funding for SEND provision and a new inspection framework to ensure that schools are providing high-quality support for these students (Gov.Uk, 2023). In Australia, the Government has implemented a national framework for inclusive education that aims to improve access and participation for students with disabilities (AIHW, 2023).

South Korea and Uruguay have implemented nationwide programs to give students access to digital devices and educational resources. In the United States, many schools have adopted blended learning models that combine traditional classroom and online learning to personalise instruction and give students greater control over their learning. However, ongoing efforts are required to fully implement and scale these reforms, ensuring inclusive and technology-enabled education systems that cater to all learners' needs.

Technical and Vocational Education and Training (TVET) plays a crucial role in addressing the skills gap and preparing individuals for the world of work. Global trends in TVET education emphasise key reforms to enhance the quality, relevance, and accessibility of TVET training. Other areas of focus include strengthening partnerships between educational institutions, industry and Government to ensure that TVET programs align with labour market needs. Part of the reforms also include improving the perception of TVET by highlighting its value and potential for career success and bridging the skills gap to foster social mobility in a competitive job market.

Similarly, University education is undergoing reforms aimed at improving its quality, accessibility, and relevance in the modern world. Key reforms include a shift towards more student-centred learning, fostering interdisciplinary studies, promoting digital literacy and technology integration, and enhancing internationalisation to produce graduates with the necessary skills, knowledge, and critical thinking abilities to contribute to socio-economic development.

Additionally, reforms focus on expanding access to University education, especially for marginalised populations, through scholarships, online learning platforms and flexible learning pathways. For example, in the United States, many Universities are implementing initiatives to promote the use of technology in teaching and learning, such as the development of online and hybrid courses, the use of learning analytics to personalise instruction, and the integration of digital tools and resources into the curriculum. In Europe, the Bologna Process has facilitated the development of a common framework for higher education across participating countries, promoting mobility and collaboration among Universities.

Reforms also focus on the governance of University education. For instance, in the United Kingdom, the Higher Education and Research Act of 2017 introduced significant changes to the regulatory framework for higher education. The Act established a new regulator, the Office for Students, with a mandate to promote greater competition and accountability. In Australia, the Tertiary Education Quality and Standards Agency (TEQSA) was established in 2011 as an Independent national regulator. TEQSA is responsible for ensuring that higher education providers meet national quality standards and for promoting best practices in the sector. In South Africa, the Government has also introduced measures to increase access to higher education for disadvantaged students and initiatives to promote greater collaboration between Universities and industry.

Africa Union's Agenda 2063 goal on education is, "Well Educated Citizens and Skills revolution underpinned by Science, Technology and Innovation". To achieve this goal,

Africa Union (AU) underlines the need to make significant investments to support education reform to develop human and social capital with a focus on Innovation, Science, and Technology. The African Union's Continental Education Strategy for Africa (CESA) aligns with Agenda 2063 and emphasises key priorities for education on the continent.

Overall, education reforms globally are initiated and implemented to enhance the quality, equity, and relevance of education systems. These reforms seek to prepare students for the challenges of the modern world, promote inclusive practices, and harness the potential of technology in education. By focusing on these key themes, education systems strive to achieve improved learning outcomes, increased educational opportunities, and better alignment with the needs of individuals and societies in the 21st Century.

1.2.2 Educational Reforms in Kenya

The main focus of Kenya's education is on improving access, retention, equity, quality, relevance and the overall efficiency of the education sector. The reforms in education aim to develop critical human capital to transform the Country on a sustainable basis. Furthermore, Kenya's Vision 2030 has identified access to quality education and training as important in transforming Kenya into a middle-income country (GoK, 2008). In response to this, the Government of Kenya is implementing critical reforms at both the Basic and Tertiary levels of education. The reforms are taking place amidst important achievements in the education sector. CBE has been implemented at the basic education level, enrollment figures have exponentially increased at all levels in the recent past, and the number of teaching and training institutions has also increased. Financing of the education sector has also remained a priority of the Government, receiving about a 25% share of the annual budget, equivalent to 6.4% of GDP.

Past education commissions of inquiry, taskforces, and presidential working parties largely focused on structure, curriculum, examination and assessment, human resources, legislation, education financing and policies affecting the education sector. Table 1.2 presents a summary of the key recommendations resulting from educational reforms between 1919 and 2020.

Table 1.2: Reforms in Education in Kenya

Year	Name of Working Party/ Taskforce/Commission/ Committees	Key Recommendations
1919	Education Commission for the East African Protectorate	• Recommended the introduction of Grants-In-Aid. As a result, the colonial Government left significant aspects of African education to missionaries.
1924	Phelps-Stokes Commission	• Introduced the Devonshire White Paper (or Devonshire Declaration), which promoted a policy of separate development on racial lines. The European, Asian and Black Kenyan children were to go through separate schools for their education.
1934	The Annual Report of 1934 on African Education Paper 21	• Under the Grant-in-Aid rule of 1934, aided schools were released from the necessity of training technical apprentice Federation of Protestant Missions: Donated surplus funds from the East Africa war relief to start Alliance High School in March 1926 and the Holy Ghost, Kabaa was started in January 1930.
1937	De-la-Warr Commission on Higher Education in East Africa	• Following the recommendations of this commission, Maseno and Mang'u opened as Junior Secondary Schools in 1938 and 1939, respectively.
1949	Beecher Education Committee of 1949	• Recommended that a small selected group of African children be allowed to transition to Secondary education. • The Committee also recommended the opening of an additional sixteen (16) Secondary schools by 1957 in the context of the 4-4-4 system of education.
1964	Ominde Commission	• Establishment of Harambee schools; • Establishment of day Secondary schools; • Appointment of teachers by BOGs; • Establishment of Government assisted schools that would be under BOGs; • Kenyanisation of Secondary schools; • Uniform Secondary fee guidelines and change of structure of the education system.
1965	Sessional Paper No. 1 of 1965	• Regarded Secondary education as the most important point in the education system, which could help in solving the manpower constraints of the nation. • Emphasised expansion of Secondary education as a necessity to laying a firm foundation for further education, training and work.
1971	Report of the Commission of Inquiry — Public Service Structure and Remuneration Commission (The Ndegwa Report)	• Introduction of double streams; increased teachers' salary. • Conversion of Aided schools to maintained schools.

1976	Report of the National Committee on Educational Objectives (Gachathi Report)	• Integration of non-formal sector to Secondary education in order to take care of school dropouts; • Development and rationalisation of education for those not selected to government Secondary Schools through extramural, correspondence courses, radio and television; • Consolidation (amalgamation) of Secondary schools into larger units of at least four streams in order to share the use of expensive facilities and teachers; • Establishment of a national school in each district and government support to Harambee Secondary schools.
1981	Presidential Working Party on the establishment of a 2nd University (MacKay Report)	• Recommended the establishment of a second University in Kenya to cater for the increasing demand for higher education and its resulting pressure on the existing institutions. • Proposed the introduction of the 8-4-4 system of education: 8 years in Primary School, 4 years in Secondary School, and 4 years in University. This recommendation led to the phasing out of the "A" level and the introduction of the 8-4-4 education system in Kenya.
1988	Presidential Working Party on Education and Manpower Training for the Next Decade and Beyond (Kamunge Report)	• Students in public schools pay the full cost of boarding and feeding, but needy students be assisted through bursaries; • Establishment of day Secondary schools as a more cost-effective way of expanding accessibility; expansion of single and double stream Secondary schools to three streams; abolition of categorisation of schools as high and low cost; • Re-designation of Secondary schools in order to do away with Harambee and government stream students in the same school.
2000	Commission of Inquiry Into Education System of Kenya (Koech Report)	• Proposed to replace the existing 8-4-4 system of education in Kenya with TIQET (Totally Integrated Quality Education and Training).
2012	Taskforce on re-alignment of the education and training sector to the Constitution of Kenya, 2012, (Odhiambo and Some Report).	• Curriculum reform to specify the expected competencies at every level of learning. • Revamp accreditation and assessment at all levels.
2020	Taskforce on Enhancing Access, Relevance, Transition, Equity and Quality for Effective Curriculum Reforms Implementation (Fatuma Chege Report).	• Placement to Junior Secondary Schools be based on formative and summative evaluation. • JSS to be domiciled at the Secondary school level.

In 2010, the Country adopted a new Constitution which provided anchorage for reforming the education sector. It included education as a constitutional right in the Bill of Rights, made basic education free and compulsory, established the Teachers Service Commission as a Chapter 15 constitutional body, and divided education delivery function between the National and County Governments.

Two task forces were then appointed in 2012 to align the education sector to the dictates of the above constitutional imperatives. They made the following key recommendations:

(i)   Development of a new education structure based on a reformed curriculum.

(ii)   Expansion of access to education and training by reducing the cost to the households.

(iii) Enhancement of access to education among vulnerable, disadvantaged and hard-to-reach groups.

(iv)   Improvement of quality and standards at all levels of education, training and research.

(v)   Setting up a national qualification framework.

(vi)   Emphasis on skills for industrial development.

(vii) Integration of Science, Technology and Innovation (ST & I) in all sectors; and

(viii) Reforming the governance structure in education, training and research.

Thereafter, legislative policy and administrative measures were undertaken to continue reforming the education sector. The Universities Act and the Teachers Service Commission Act were enacted in 2012, while the Basic Education Act and the Technical and Vocational Education and Training Act were enacted in 2013. Other related laws were enacted simultaneously, including the Science, Technology and Innovation Act.

In 2012, efforts were made to develop a sessional paper to actualise the recommendations of the two task forces in aligning the education and training sectors to the Constitution. In 2017 as part of curriculum reforms, the Basic Education Curriculum Framework was adopted, which provided the launchpad for CBC. In 2018 and 2019, the National Curriculum Policy and the Sessional Paper No. 1 of 2019 were developed and adopted, respectively. This is the context against which the sector's performance and challenges should be viewed.

1.2.3   Sector Performance and Challenges

Kenya has made significant gains, especially in access to education. In the last two decades, enrollment figures have increased; the number of school-going children has increased at all levels. In addition, there has been an exponential increase in the number of new educational institutions and learning centres and increased recruitment and deployment of teachers, lecturers and instructors. These developments depict a growing sector and, therefore, a sector requiring reforms to effectively achieve quality education.

The sector has witnessed varying growth patterns in terms of the number of institutions and enrolment over the last decade, as shown in Figures 1.1 and 1.2. These impressive gains were the result of the introduction of Free Primary education in early 2003 and Free Day Secondary Schools in 2008. The Country also achieved a 100% transition from Primary to Secondary as a result of these initiatives.

Kenya has also placed emphasis on expanding the TVET subsector. The Government has implemented reforms to enhance the quality and relevance of TVET, including curriculum development, infrastructure improvement, and industry partnerships. As a result, as shown in Figures 1.1 and 1.2, TVET has experienced remarkable growth. The number of TVET institutions increased from 705 in 2012 to 2,401 in 2022. In the same period, enrollment grew from 127,691 in 2012 to 562,499 in 2022. Figure 1.1 also shows that the University subsector has similarly grown. The number of public and private Universities increased from 35 in 2012 to 78 in 2022.
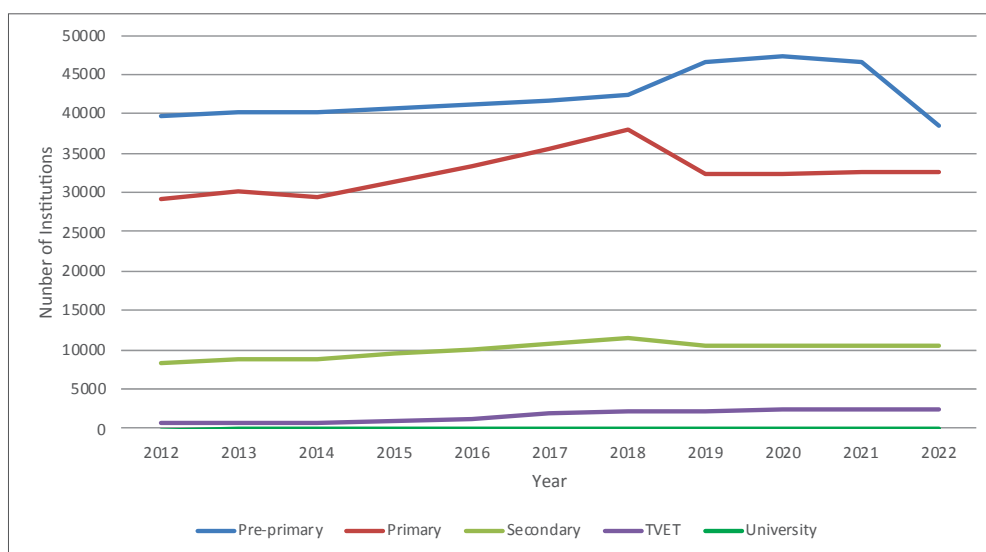
Fig. 1.1: Number of institutions per year by category (Source: KNBS, 2023)
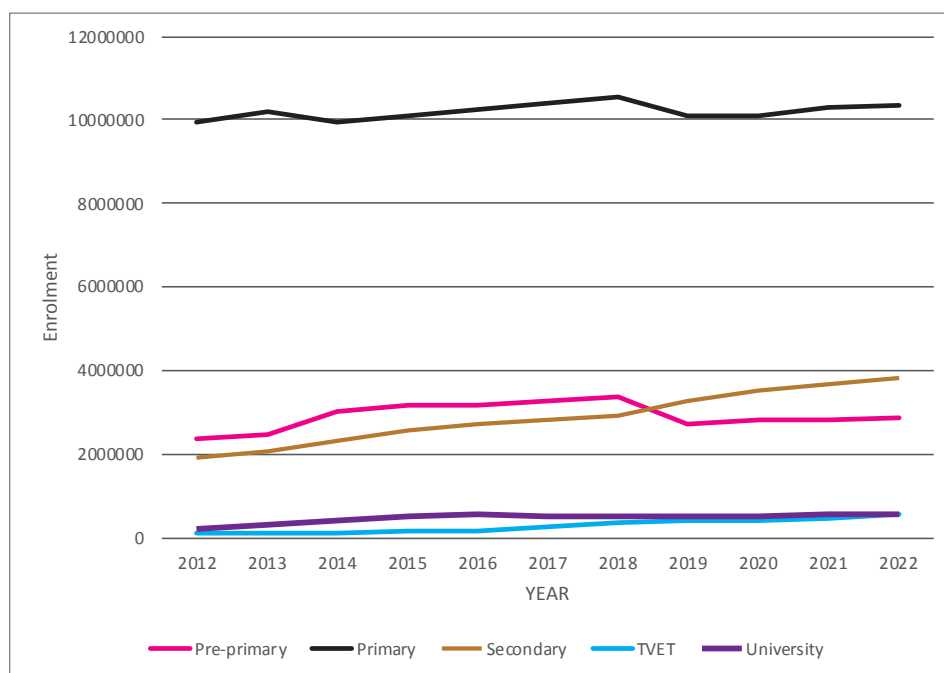
Fig. 1.2: Enrolment trends by category (Source: KNBS, 2023)

Amidst these gains, education sector performance continues to witness challenges. Access and equity pose significant obstacles. Despite efforts to increase access to Basic and Tertiary education, disparities in geographical location, gender, socio-economic status, and special needs persist. Children in rural and underserved areas, girls, children from low-income families, and children with disabilities frequently face obstacles in accessing quality education. Many children struggle to access quality education, particularly those from marginalised communities and rural areas. There is a significant gap in educational attainment between rich and poor students in Kenya.

According to UNESCO (2018), only 10% of children from the poorest households in Kenya complete Secondary school, compared to 70% of children from the richest households. This gap is due to a number of factors, including access to quality education, teacher quality, and family resources. In addition, the current 100% transition policy has led to congestion in the classrooms in Secondary schools, with a significant number of class sizes exceeding the UNESCO-recommended 45 students per class. Many students and their families struggle to afford a University education. High living and tuition costs and a lack of available financial help make it difficult to increase enrollment and curb student dropout.

The quality of education in Kenya's Primary education sector remains a significant challenge. A 2018 report by the World Bank on early years of education found that only 25% of Kenyan students were proficient in Mathematics and 20% in reading. This is due to factors such as inadequate teacher training, lack of resources, and poor curriculum design. As for Secondary education, the 100% transition policy has led to congestion straining the existing infrastructure and human resources. In addition, Kenya's education system over-emphasises summative examinations such as the Kenya Certificate of Primary Education (KCPE) and Kenya Certificate of Secondary Education (KCSE). Similar quality challenges are also experienced in the Tertiary sub-sector.

In terms of relevance, there is a mismatch between the knowledge, skills, values and competencies imparted through education and the needs of individuals, society, and the labour market. In addition, there has been a challenge of relevance because of limited linkages with the industry.

The TVET sub-sector faces many challenges, including poor infrastructure, outdated technology, scarce resources, and unfavourable societal attitudes. Many people view TVET as a second option to academically oriented education. This calls for concerted efforts to change this image and promote TVET education.

In the University subsector, there is the challenge of the relevance of academic programs offered. This has resulted in a large number of unemployed graduates. In addition, the expansion of University education has led to Universities offering similar courses and academic programs, leading to the overproduction of graduates in areas of study not being accompanied by specialisation and niches.

The allocation of funding and resources remains a critical issue in the education sector. Inadequate financial resources frequently impede infrastructure development, provision of learning materials, and student and teacher support systems. Although Kenya has made significant investments in its education sector, with expenditure reaching international

benchmarks, both as a share of total government expenditure (TGE) and as a share of gross domestic product (GDP), every sub-sector complains about inadequate funding.

Another challenge is governance. There have been efforts by the Government regulatory bodies and administrations in the education sector to address challenges through reforms, policy changes, and improved oversight mechanisms to improve governance. However, overlapping mandates across basic education have largely contributed to the inefficiencies experienced in the sector. For example, the implementation of the CBC has been seriously hampered as a result of the perceived conflict of mandates between the Ministry of Education and its SAGAs and the TSC, on the other hand. The University Act, 2012 provides the legal framework for the establishment, regulation, and management of a University in the Country. Concerns have been raised about the provisions for the appointment of Chancellors and Vice-Chancellors and the bloated management structures in Universities, with many Universities having a huge number of administrative staff.

Special needs education is also not well addressed. The Government has made efforts to improve access to education for children with special needs and disabilities. Tertiary institutions in Kenya strive to provide support services and accommodations for students with special needs. However, the implementation and availability of SNE services may vary across different regions and institutions in Kenya.

Technology plays a significant role in transforming content delivery in both basic and Tertiary education by facilitating access to digital learning resources. E-learning platforms have emerged to support remote learning and blended learning approaches, but the capacity of teachers, especially in underserved areas, continues to constrain technology uptake and, therefore, disadvantage some learners, schools, regions and teachers.

The low performance of Universities in research and innovation negatively affects the countrys' global ranking. Universities emphasise teaching at the expense of research. This has weakened linkages between the content of teaching and the uptake of research findings. Moreover, the consumption of scientific knowledge by public institutions and the Country, in general, is limited because of poor research governance and poor interlinkages between Universities and the public. The development of research and innovation ecosystems within the University sector is hampered by a lack of coherent research policy that is focused on improving performance in a competitive and globalised world.

1.3   Methodology

In discharging its mandate, the PWPER employed several approaches and strategies, including interpretation of terms of reference, literature review, call for and receipt of memoranda, county stakeholder and public engagements, national stakeholder consultations, and engagement with experts and Kenya's diaspora community.

(i)   Interpretation of ToRs

The PWPER began by interpreting the ToRs and establishing a framework to operationalise its mandate. This was done in interrelated steps that started with an induction workshop officially opened by the Deputy President, H.E. Hon. Rigathi Gachagua, on 12th October

2022. The induction enabled the members to understand their roles. Based on the induction, a work plan was prepared to guide the activities of the PWPER.

(ii)   Literature Review

The PWPER identified and reviewed key literature pertinent to its ToRs. These included public policy documents, all laws in the education sector, international conventions and declarations, evaluation reports and other stakeholder studies and reports. The review also included books, journal articles, online resources, and newspaper articles. The reviewed literature helped the PWPER to develop data collection tools comprising the checklist of issues that concerned the ToR. The literature was also a key data source on trends and options, including benchmarking. Further, PWPER identified key stakeholders, individual and groups for interviews and engagements.

(iii)   Public Memoranda

The PWPER solicited views from the public issued through print and electronic media. These memoranda were received through a dedicated email address and at the PWPER's physical offices in ABSA Building in Nairobi. In addition, the Working Party developed a website, www.educationreforms.go.ke, for continuous interactive engagement with the public.

(iv)   County Public Engagements

In conformity with the constitutional requirement for public participation, PWPER organised engagements in the forty-seven counties that took a two-pronged approach: The two days per county engagements included one-day visits to learning institutions. The institutions included a Pre-Primary centre, Primary school, Secondary school, SNE Schools, TVET institution and a University where applicable in each County. The purpose of visiting the institutions was to collect data through focus group discussions and observe their status. The second day was dedicated to open public engagements at a designated location within each County. These engagements were conducted between 1st November 2022 and 11th November 2022, as shown in Table 1.3. During the visits, the teams heard oral submissions, collected hard copy memoranda and audio-visually recorded the proceedings.

Table 1.3: Schedule of County Public Engagement Fora

Date	County	Venue
Tuesday 1st November 2022	Kwale	Kwale High School
	Taita Taveta	CDF Hall Mwatate
	Marsabit	Moi Girls High School Marsabit
	Nyandarua	Nyandarua High School
	Turkana	Lodwar Boys High School
	Kericho	Kericho Teachers College
	Busia	Lwanya Special School
	Migori	Migori Teacher's Training College
	Samburu	St. Irene Secondary School
	Mandera	Mandera Secondary School

Thursday 3rd November 2022	Mombasa Makueni Nyeri Elgeyo Marakwet Bungoma Nyamira Homa Bay	Coast Girls High School Makueni Boys High School Nyeri High School Tambach Teachers' College St Teresa's Sio High School Sironga Girls High School Homa Bay High School
Friday 4th November 2022	Isiolo Wajir Laikipia	Isiolo Girls High School Wajir High School CDF Hall Nanyuki
Monday 7th November 2022	Kilifi Kitui Kirinyaga Bomet Trans Nzoia Kakamega Kisii	St. Thomas Secondary School Kitui Multi-Purpose Hall Kerugoya Girls' High School Tenwek High School St. Monica's Girls' High School Kakamega High School Kisii University
Tuesday 8th November 2022	Meru Garissa Baringo	Meru Teachers' College N.E.P Girls High School Kenya School of Government Baringo Campus
Wednesday 9th November 2022	Lamu Embu Murang'a West Pokot Narok Nandi Siaya	Mokowe Arid Zone Primary School University of Embu Murang'a Teachers' College Nasokol Girls High School Ole Tipis Girls Secondary School Kapsabet Girls Secondary School Nyamira Girls High School
Friday 11th November 2022	TANA RIVER MACHAKOS THARAKA NITHI KIAMBU UASIN GISHU KAJIADO VIHIGA KISUMU NAIROBI NAKURU	Hola Primary School Machakos Girls' High School Chuka University Chania Boys' High School Uasin Gishu High School Umma University Moi Girls High School, Vokoli Kisumu Girls' High School University of Nairobi Nakuru Girls High School

(v) National Stakeholder Consultations

The PWPER mapped out key stakeholders and organised consultations. Some stakeholders were invited to the Working Party's offices in ABSA, CEMASTEA, while others were consulted in their offices. In addition, those that reached out to the PWPER-seeking audience, whether groups or individuals, were also given an opportunity to present their views. The stakeholders consulted included but were not limited to Trade Unions, Faith-based organisations, The National Assembly, The Council of Governors (COG), Civil Society Organisations, students, individuals, the Private Sector, TVET institutions, Development Partners, Universities, Government Ministries, Departments and Agencies. A full list of stakeholders consulted is attached as **Appendix 1.2**.

(vi) Engagement with Experts

The PWPER sought the views of experts in varied fields, including educationists (curriculum experts, assessment experts, lecturers, trainers and teachers, education managers, heads of institutions of learning), caregivers, planners, statisticians, architects, engineers, quantity surveyors and lawyers. The engagements also included key agencies such as KICD, KNEC, KUCCPS, HELB, UFB and the Ministry of Education. These engagements were necessary to provide insights into technical fields.

(vii) Kenya Diaspora Community Consultations

In recognition of the critical contribution of Kenyans in the diaspora, the PWPER organised targeted sessions for them. A member of the PWPER living in the diaspora was the link person to this community. The member identified stakeholders from the diaspora and organised physical and virtual consultation sessions. Their memoranda and input enriched the findings and recommendations of this Report.

(viii) PWPER Operations

To achieve its mandate, the PWPER formed three committees and nine sub-committees, shown in Table 1.4.

Table 1.4: Committees and Sub-Committees

Committee	Sub-Committee
Basic Education	Curriculum and Assessment
	Teacher Education and Management
	Standards and Quality Assurance
Tertiary and University	Technical and Vocational Education and Training (TVET)
	University
Cross-Cutting Issues	Legal and Governance
	Financing and Equity in Education
	Technology in Education
	Research and Report Writing Committee

Each Sub-Committee was allocated a set of ToRs to address. Every Sub-Committee had a chairperson who guided the research and deliberations on the issues under their mandate. The outcomes of the deliberations from the Sub-Committees were then taken to the respective committees for consensus building under the leadership of the Committee chairpersons.

The PWPER also held regular plenary sessions at its ABSA and CEMASTEA offices. In addition, it held retreats in Sagana and Naivasha.

(ix) Data Analysis and Report Writing

The PWPER received raw data submitted through emails, written hard copy memoranda and County specific reports. This quantitative and qualitative data were analysed, and the outcomes informed this Report. In addition, the audio-visual recordings were used to develop a documentary highlighting the voices of stakeholders. Submissions received from the public and stakeholders are shown in Table 1.5.

Table 1.5: Distribution of Submissions by Stakeholders

Stakeholders' Submissions	Number Received
County and Diaspora Reports	48
Hard Copy Memoranda	1461
Audio Visual Recordings (Hours)	500
National Stakeholders' Memoranda	138
Emails	6526

NB: *PWPER visited 397 education and training institutions in the 47 counties and engaged 16,801 participants in County Hall meetings.*

(x) Presentation of Progress Reports

The PWPER was expected to present progress reports every two months to the President as per the ToRs. The First Progress Report, which focused on the Transition of Grade Six (6) learners, was submitted to the President on 1st December 2022, while the Second Progress Report, which focused on Tertiary Education (TVET), University Education and Teacher Education, was presented on 16th February 2023. The presentation of these Reports provided an opportunity for the Government to consider and implement some of the recommendations of PWPER on critical and urgent issues, such as domiciling of Junior Secondary Schools and a new financing model for Tertiary education.

1.4. Organisation of the Report

This Report is organised into two parts — Basic Education and Tertiary and University Education. The introductory Chapter precedes these. Part One comprises seven chapters and begins with Chapter Two on the Implementation of CBC. Chapter Three discusses the findings on the state of Quality Assurance and Standards in Basic Education. Chapter Four discusses Teacher Education and Management.

Chapter Five is on the Financing of Basic Education. Chapter Six discusses Equity and Inclusion in Education. Part One concludes with an analysis of the Laws Governing Basic Education in Chapter Seven.

Part Two comprises five chapters, which run from Chapters Eight to 13. Chapter Eight discusses issues in TVET, while Chapter Nine addresses Governance, University Education, Research and Training. Financing of Tertiary Education is covered in Chapter 10, followed by a discussion on the Laws Governing Tertiary Education in Chapter 11. Chapter 12 addresses Cross-Cutting, Pertinent and Contemporary Issues in Education. Finally, Chapter 13 presents the framework for the implementation of the PWPER recommendations.

Each Chapter follows a similar structure commencing with an introduction, followed by situational analysis, which is structured into the global and regional context, national context, and then views of stakeholders. Based on these, conclusions are presented, which capture the findings by the PWPER. Each Chapter then ends with recommendations for action. Finally, the Report ends with bibliography and appendices.

CHAPTER TWO

IMPLEMENTATION OF COMPETENCY-BASED CURRICULUM

2.1   Introduction

Since independence in 1963, Kenya has undertaken several reforms in the education, training and research sector. Among the reforms was the recommendation by the Douglas Odhiambo Report (2012) to change the education structure from 8-4-4 to 2-6-3-3. The new structure was envisaged to be implemented under a Competency-Based Curriculum (CBC) to ensure learners acquired core competencies and promote lifelong learning. The reforms also sought to promote Values-based Education (VbE) and enhance the role of parents and communities in educating children.

Implementation of CBC has been phased in progressively since 2017, with the first cohort expected to transition to Tertiary education by 2029. However, there have been concerns about the achievement of learning outcomes, domiciling of Junior Secondary School, the number of out-of-school children, the categorisation of schools and the mode of Assessment. Other concerns included the number of learning areas, the role of parents and stakeholders, technology in education and key tenets underpinning the curriculum reform.

The PWPER was required to undertake an evaluation of CBC and make relevant recommendations on summative evaluation of CBC, appropriate structure to implement CBC, key tenets guiding CBC and assessment and examination framework. Additional TORs included technology for curriculum delivery, categorisation of schools and a suitable tracking system of learners.

This Chapter presents a situational analysis of the global, regional and national contexts, stakeholders' views, PWPER findings and recommendations on the implementation of CBC.

2.2   Global and Regional Context

Globally, Competency-Based Education (CBE) is known to prepare learners better for the global economy, rooted in the philosophy of practical education. This is evidenced in Organisation for Economic Co-operation and Development (OECD) countries such as Finland, Denmark, and the Netherlands (OECD, 2019). The Competency-Based Curriculum is designed to be more learner-centred, allowing for a more personalised approach to learning. This means that learners learn at their own pace and pursue their individual needs and interests.

Competency-Based Curriculum has been found to be a valuable tool for preparing

learners for success in the global economy (Akala, 2021). For instance, in South Africa, CBC was introduced to address the acute shortage of professionals such as engineers, technicians and artisans (Mulenga & Kabombwe, 2019). Likewise, Rwanda transitioned to CBC in order to ensure learning was profound and enjoyable and that it was leading to high standards and levels of achievement.

The United Nations Educational, Scientific and Cultural Organisation (UNESCO) has undertaken a summative evaluation of CBC in different countries. The findings reveal the need to review several pedagogical aspects within CBC, including balancing learning and assessment time, management of assessment information, and reducing the number of subjects tested.

2.3   National Context

This Section covers the seven key areas of CBC implementation. These include: Key tenets of CBC; structure for implementation of CBC; categorisation of public schools; Assessment and examinations; summative evaluation of CBC; technology in education; and data tracking and management system in education.

2.3.1   Key Tenets of Competency-Based Curriculum

The key tenets of CBC, which include Values-based Education (VbE), Community Service Learning (CSL), and Parental Empowerment and Engagement (PE&E), are critical components of the curriculum forming the software for the education system. These key tenets for CBC were identified in the Needs Assessment Report for School Curriculum in Kenya (KICD, 2016). They are anchored in the Constitution of Kenya; National Youth Policy (2018); Basic Education Act No. 14 of 2013 (Revised edition 2019); Sessional Paper No.1 of 2019; Kenya Vision 2030, and the African Union Agenda 2063. It is observed worldwide that integrating desired values and principles into the education system supports the holistic development of the learner and significantly impacts educational, economic, and social outcomes.

Values-based Education promotes character development, patriotism, and global citizenship (Otieno, 2018). Community Service Learning encourages learners to develop an understanding of civic responsibility to support and strengthen their communities. According to UNESCO (2000), PE&E enhances impactful benefits on children's learning progress by promoting effective communication between teachers and parents.

The core values identified in the Basic Education Curriculum Framework (KICD, 2017) have been mainstreamed in all learning areas in the formal dimension of the curriculum. However, there is a need to mainstream the values in the non-formal and informal dimensions of the curriculum where every school community member, including the leadership, parents, teachers, support staff, learners and community, are involved in nurturing values among learners. In response to increased behavioural and moral crises in society, many countries have incorporated values education into their school curriculum. For instance, India incorporated video clips of key personalities such as Mahatma Gandhi, who exemplified desired values (Sharma, 2016), and South Africa introduced values in the school system to foster social cohesion and promote social acceptance among diverse cultural backgrounds (Niekerk et al., 2017).

Community Service Learning (CSL) has been integrated across the learning areas in Primary, Junior School, stage-based pathways and teacher training courses for Diploma in Early Childhood and Primary Teacher Education. However, at the Senior School and Diploma course for Secondary school teachers, CSL is a compulsory stand-alone subject. In Nigeria and Ghana, CSL was observed to mirror the quality and aspiration of society as regards their norms and values (Odusunya & Adesoji, 2019).

Parental Empowerment and Engagement is a critical success factor for CBC. The role of a parent and the community at large has not been fully defined and actualised to promote the learning and holistic development of the learner. KICD (2019) developed strategies for implementing PE&E, which identified training of stakeholders, advocacy, and resources as critical. However, the operationalisation of the PE&E guidelines has not been adequately done. Evidence from New Zealand shows that an effective communication system with parents, caregivers and guardians on their children's learning progress is paramount (Averill, Metson & Bailey, 2016).

2.3.1.1 Views from Stakeholders on Key Tenets of CBC

According to the stakeholders' views, the key tenets of CBC positively impact the achievement of learning outcomes. In addition, the tenets were observed to be a major and strategic element of the CBC. However, the stakeholders raised concerns about the effective pursuance of these critical tenets.

The stakeholders observed that nurturing values among learners promotes positive practices such as ethics, morality, religious values, a sense of responsibility and social competence. Values-based Education was reported to enhance social justice, respect and integrity among learners. Integrating values in the curriculum would significantly reduce retrogressive cultural practices and vices such as Female Genital Mutilation (FGM), radicalisation, and drug and substance abuse.

Notwithstanding the above, stakeholders also noted that mainstreaming values in the learning process remained a challenge. The following statement from a stakeholder aptly captures the challenge of nurturing values among learners:

> *Whereas the basic education curriculum framework outlines the core values, which include love, responsibility, respect, unity, peace, patriotism, social justice and integrity, the method on how to teach the values has been unclear, including the learning outcomes to be achieved from the topics on values (*RESP010).

The stakeholders observed that it was difficult to assess values acquired by learners. Additionally, both teachers and parents cited challenges in nurturing values among learners. Further, it was observed that media content conflicted with the desired values and that a disconnect existed between what is learned at school and what learners experience in society concerning values. The stakeholders expressed the need to create awareness about VbE through the involvement of all the school community members, integrate values in all learning areas, and develop and implement structured chaplaincy programs in schools. Some stakeholders submitted that:

> *Our religious support programs are not properly structured to cater for the spiritual well-being of all learners (*RESP012).

Community Service Learning was observed to create an environment for productivity and innovation that helps promote social responsibility and patriotism among learners as they work towards solving real-life challenges in their communities. It also enhances learners' holistic development, bridging theoretical learning with practice and making learning more enjoyable. Stakeholders also noted that CSL is instrumental in imparting critical values among learners that go a long way in mainstreaming the national values enshrined in the Constitution of Kenya.

However, it was reported that the implementation of CSL by the key stakeholders remained a challenge owing to overload and overlaps. This has caused constraints on time and resources in the learning process. The following were verbatim excerpts from the submissions:

> *Scale down the CSL component to ensure that the same is implemented with the locally available materials and within the school calendar timelines* (RESP013).

> *While the intention of CSL is great, the implementation is a challenge and requires a review to make it appropriate to the levels of the learners (RESP014).*

The stakeholders reported that PE&E was a positive initiative that sought to provide parents with a clear track of their children's progress. Among the key tenets, most stakeholders pronounced themselves more on PE&E, citing challenges that pointed to a lack of awareness on the part of the parent. It was further reported that the implementation of CBC is hampered by low literacy levels among parents who have difficulties assisting their children in learning. Notably, male parent involvement was reported to be low. The following was a verbatim excerpt from the submissions:

> *The fathers are rarely involved in the learning process of their children, especially in attending meetings in schools* (RESP015).

Further, the findings indicated that the time and cost should be considered when making decisions for parental participation in their children's learning. Indeed, some stakeholders observed that:

> *The CBC is very expensive; every time, parents are asked to buy this or that* (RESP016).

> *Parents end up mistaking aiding their children with assignments with actually doing the assignment for the pupil. Therefore, hindering the child from learning as the marks awarded are not genuine and can be regarded as a form of cheating* (RESP017).

It was observed that most parents did not have digital devices like smartphones or access to the Internet to assist learners in searching for information online. It was also reported that the cost of downloading and printing learning materials was beyond the reach of many parents.

Further, it was noted that some assignments demanded materials that were not locally available. Additionally, views from the stakeholders indicated that some

parents were rarely found at home, thereby not supporting their children in school assignments. The following was a verbatim excerpt from the submissions:

> *The hectic part of this curriculum, (is that) as you offer a lesson, you are directed to use the Internet. How can you use the Internet in a place without a network?* (RESP018).

The views from the stakeholders also indicated that "take home" assignments were overwhelmingly denying learners an opportunity to participate in other activities at home. It was also observed that parents perceived that teachers were demanding more items than required for learning. The stakeholders proposed the need to review and operationalise the guidelines for PE&E and conduct robust training of teachers and parents on the role of parents in the learning process. The following was a verbatim excerpt from the submissions:

> *Develop a curriculum on parenting skills to help the parent understand and actualise their roles* (RESP019).

The PWPER findings show that the above key tenets have not been fully understood, operationalised and realised. Teachers and parents have experienced difficulties in nurturing values, while the CSL activities cause overlap and overloads of the curriculum with additional cost. Further, parents have not fully appreciated their role in the learning process of their children. Parental Empowerment and Engagement has not encompassed other key players such as the caregivers, guardians and the community.

2.3.2   Structure for Implementing Competency-Based Curriculum

The 8-4-4 system, which started in 1985, has served its academic function. The system has five cohorts of learners remaining before it is phased out in 2028. In this regard, there is a need to consider the potential of each learner, the learning resources available and the delivery of learning to ensure fairness.

The Competency-Based Curriculum (CBC) is conceptualised to be implemented using a structure that seeks to enable every Kenyan learner to become an Engaged, Empowered and Ethical Citizen. In addition, this structure must align the learner to the world-class standards in skills and knowledge required in the 21st Century. Since 2017, Kenya has been implementing the 2:6:3:3 structure in basic education, organised into age-based and stage-based progression pathways. The age-based pathway is organised into three (3) levels: Early Years Education, Middle School Education and Senior School. The Stage-based pathway is organised into four levels, namely: Foundational, Intermediate, Pre-vocational and Vocational. Figure 2.1 illustrates the structure of basic education in Kenya.
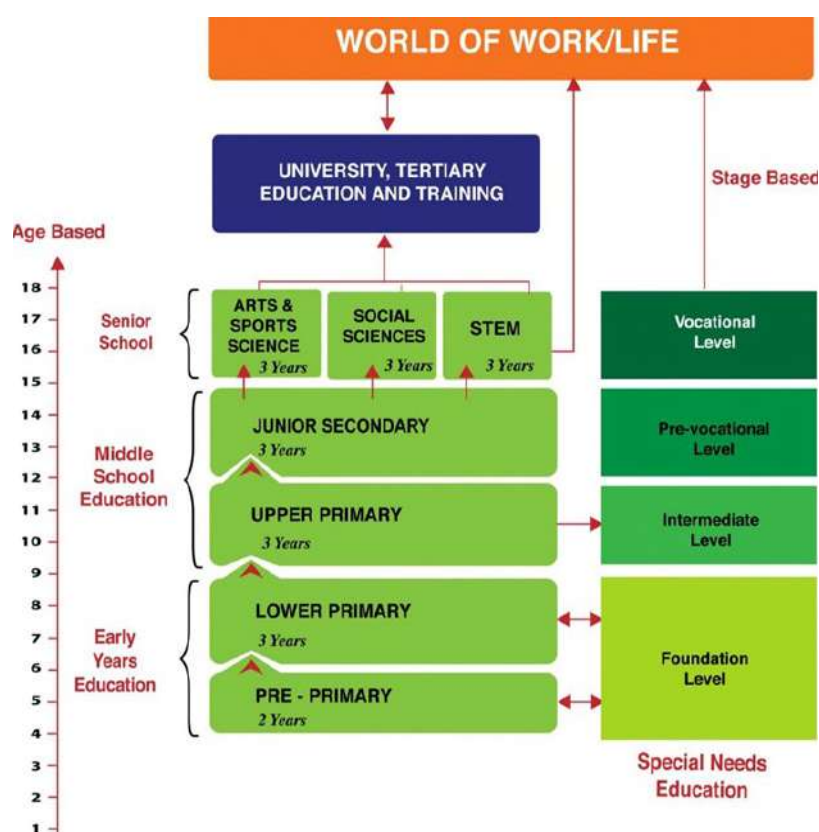
Fig. 2.1: Basic Education Model of 2-6-3-3 Structure (Source, KICD, 2019)

Kenya's 2:6:3:3 basic education structure mirrors the global trends and aims to meet international educational standards. The structure aims to provide a comprehensive education that promotes a broad foundation of knowledge and skills while ensuring a smooth transition from one level to another. This provides flexibility in terms of academic progression and specialisation. It is evident that most countries have adopted a structure that comprises 2 years of Pre-Primary, 6 years of Primary, 3 years in Junior School, 3 years in Senior School and a minimum of 3 years at the University level, as shown in Table 2.1.

Table 2.1: International Comparative Analysis of Education Structure

Country	Pre-Primary	Primary	Junior School	Senior School	University
England	1	6	3	3	3
South Korea	3	6	3	3	4
Malaysia	2	6	3	2	3
China	2	6	3	3	3
Ghana	–	6	3	3	3
South Africa	1	6	3	3	3
Rwanda	3	6	3	3	3
Tanzania	2	7	4	2	3
Kenya (8-4-4 Phasing Out)	2	8	–	4	4
Kenya (2-6-3-3 Phasing In)	2	6	3	3	-

Source: Odhiambo Taskforce Report (2012)

2.3.2.1 Views from Stakeholders on Structure for Implementing CBC

The stakeholders pronounced themselves on the structure of education. Of the 5,205 submissions received regarding the implementation of the education structure, 51.2% opined to retain the structure with review and a further 9.6% proposed its retention as is. The verbatim submissions are captured as follows:

> *The structure under CBC is critical to Kenyans and the future of education in Kenya. Its intentions are good* (RESP004).

However, 21.1% and 12.9% of the submissions proposed discontinuation of the structure and reverting to the 8-4-4 structure with improvement, respectively. The stakeholders' views are captured as follows:

> *CBC should be abolished as a matter of urgency. A curriculum that is not understood by the teacher is expensive to the parent and is unpopular with the learner is a fraud!* (RESP005).

A summary of the findings is presented in Figure 2.2.
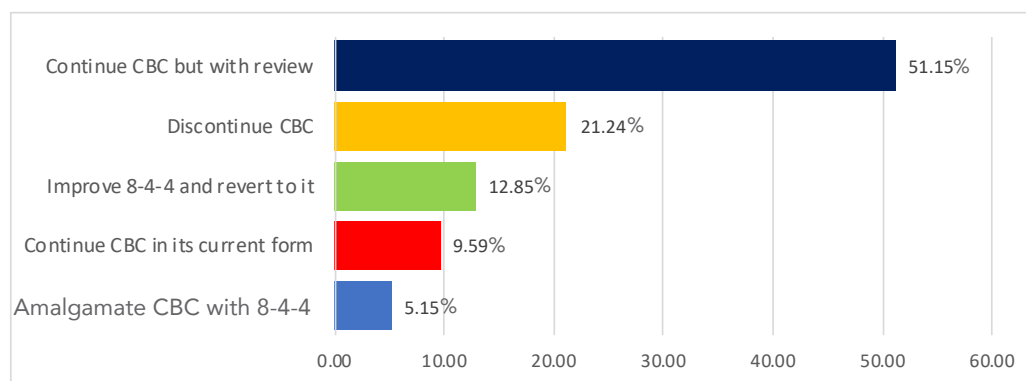
Fig. 2.2: Stakeholder views on the structure of a competency-based curriculum

On transition to Junior Secondary School, there were 2,563 submissions from stakeholders. Nearly all the submissions (93%) recommended hosting Junior Secondary School (JSS) in existing Primary schools. A few (5%) suggested hosting JSS in existing Secondary schools. Only 2% of the submissions suggested new schools for JSS. This is presented in Figure 2.3.
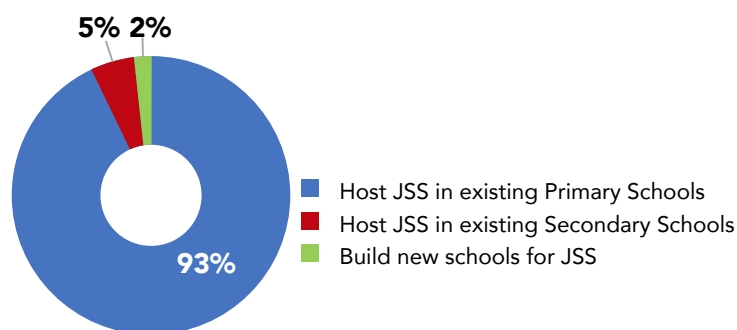
Fig. 2.3: Transition to Junior School

Most of the submissions indicated that Grade 7 and 8 learners would experience challenges in settling down and integrating with Secondary School learners who are relatively much older. Cost considerations were also presented to justify hosting Junior School in existing Primary Schools as Standard 7 and 8 classrooms will be unoccupied; thus, it was considered more cost-effective to have Junior School hosted in existing Primary Schools instead of building new classrooms/schools. However, respondents recommended that existing Standard 7 and 8 classrooms be revamped before the transition to ensure they meet the infrastructural demands of CBC. The following are selected verbatim excerpts from stakeholders:

> *How can a child of 11 years study in the same school with a 19-year-old and board in the same dormitory?* (RESP008).
>
> *It appears more efficient to retain Grade 7 and Grade 8 in Primary Schools, where there is already some infrastructure (for Standard 7 and 8), which can be improved to meet CBC standards, than going to construct new classes in selected Secondary School* (RESP009).
>
> *With the anticipated 100% transition from Grade 6 to Grade 7, this might not be viable given that the Primary Schools are more than the Secondary Schools* (RESP009).

From the findings, it is apparent that the stakeholders were conscious of the psycho-social challenges that would arise if Grade 6 learners transit to Secondary Schools located far away from their parents.

It should be noted that the current education structure has not provided for Tertiary education and the Alternative Provision of Basic Education and Training (APBET) The findings show that University education takes a minimum of three years; hence a 2-6-3-3-3 structure is therefore recommended. The recommended structure also provides for APBET and organises Basic Education into 2 years of Pre-Primary School, 6 years of Primary school, 3 years of Junior School and 3 years of Senior School. The proposed structure also allows learners from Senior School and Vocational levels to join the world of work, as shown in Figure 2.4.
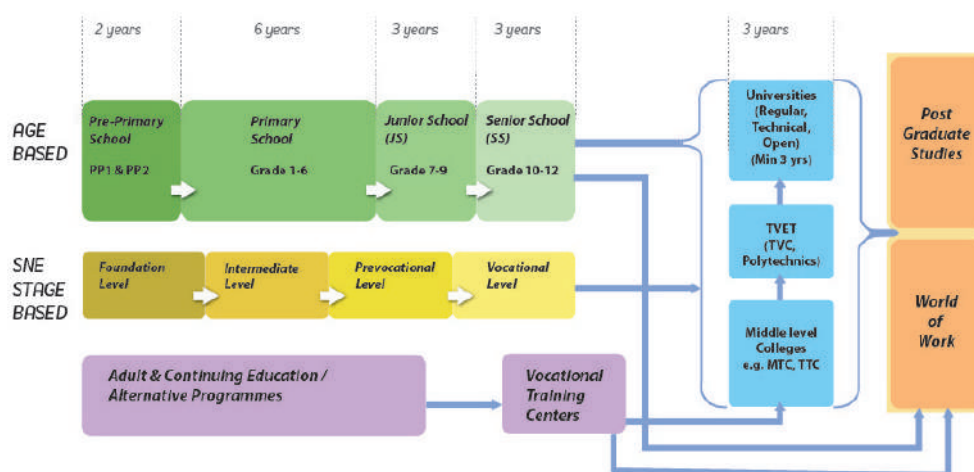
Fig. 2.4: Proposed education structure

2.3.3   Categorisation of Public Schools

The Basic Education Act of 2013 classifies schools broadly as private or public. Further categorisation is based on ownership (public/private), the status of accommodation (day/boarding or mixed day and boarding), gender type (girls/boys or mixed boys and girls), and special needs status (special/integrated/regular/with special units). Public Secondary Schools are categorised into National, National-SNE, Extra-County, County and Sub-County schools.

The BECF (2019) provides for three career pathways at Senior School: STEM (Science, Technology, Engineering and Mathematics); Social Sciences; and Arts and Sports Science. This necessitates the need to rethink the categorisation of the Senior School. The current categorisation of public Secondary schools disadvantages the sub-county schools that are predominantly day schools. While the National, Extra County and County schools admit learners with higher examination scores, they are also better endowed with infrastructure and other learning resources, including boarding facilities.

Kenya Vision 2030 emphasises STEM subjects to drive social-economic transformation and national development. In this regard and in line with the BECF, it is expected that 60% of the learners at SS will be placed in the STEM pathway, 25% in Social Sciences and 15% in Art and Sports Science. It is worth noting that the STEM pathway provides for Career and Technology Studies (CTS). The current categorisation does not align with these projections.

2.3.3.1 Views from Stakeholders on Categorisation of Public Schools

The stakeholders raised concerns about the categorisation of schools that were said to promote exclusion and unfair resource allocation. In addition, the stakeholders decried inequalities between the National schools, Extra County, County and Sub-County schools. This is captured in the following verbatim excerpt:

> *The current categorisation of schools is unfair as national schools are more advanced in terms of resources while county and sub-county schools are lagging behind* (RESP094).

It was also reported that basing capitation on enrolment disadvantaged the day schools, which have a low learner population. In this regard, most day schools lack adequate infrastructure and facilities to support effective learning.

The boarding schools were reported to be expensive to most parents, making them inaccessible to bright but needy learners. Consequently, competition for the coveted slots in the National and Extra County schools has led to 'high-stakes' testing, which often leads to examination malpractices and integrity issues.

Stakeholders raised concerns about the preparedness of the schools to offer career pathways, especially STEM. They proposed a review of the categorisation of Senior School in order to give equal chances to all with reduced costs to education. Further, stakeholders, especially from marginalised groups, proposed government support for low-cost boarding Primary schools that address issues of access and affordability.

2.3.4   Assessment and Examinations

The Basic Education Curriculum Framework (2019) informed the development of the Competency-Based Assessment Framework (CBAF) to provide guidelines for formative and summative assessments for Age-based and Stage-based pathways. In addition, the Framework addresses the challenges of high stakes in examinations and the use of assessment as part of the learning process. The shift from examinations to assessments was undertaken to ensure that outcomes such as values that may not be readily assessed in a one-off examination and summative assessment are considered. The current global practice is to blend both summative and formative assessment for effective provision of feedback on the learner's progress and for improvement of the education sector. Countries such as England, China, Israel, South Africa and Ghana have adopted formative assessment at all levels of education and summative assessment at the end of each level of education.

The 8-4-4 education structure provided for examinations that were primarily summative for certification and placement. A norm-referenced and criterion-referenced summative evaluation was administered at the end of the Primary and Secondary school cycles, respectively. However, school-based assessments were administered during the learning process but did not form part of the final score except for some Secondary school subjects, which required practical and project work. The examinations are high stake assessments with consequences to the learners based on their performance. This encouraged unhealthy competition for limited slots in the subsequent levels of education, with learners who fail to obtain quality grades in the examinations often dropping out of school, leading to a high wastage of a youthful population. The grading system for KCSE considers 7 subjects (English, Kiswahili, Mathematics, 2 Science subjects and 2 other subjects), which disadvantage some learners whose best performing subject is not considered if not within the cluster. It is worth noting that both English and Kiswahili measure the literacy level of a learner, while Mathematics and any Science subject evaluate the numeracy aspects of the learner.

Formative assessments are administered as Classroom Assessments (CA) and School Based Assessments (SBA). The CA are designed and administered by teachers at the school level, while School Based Assessments (SBA) use standardised assessment tools developed by KNEC but administered and scored by classroom teachers, which is in line with the BECF on the institutionalisation of formative assessments. Summative assessments are administered in Grades 3, 6, 9 and 12 to mark the end of Primary School, Junior School and Senior School cycles, respectively. The CBAF is illustrated in Figure 2.5.

Competency-Based Assessment Framework
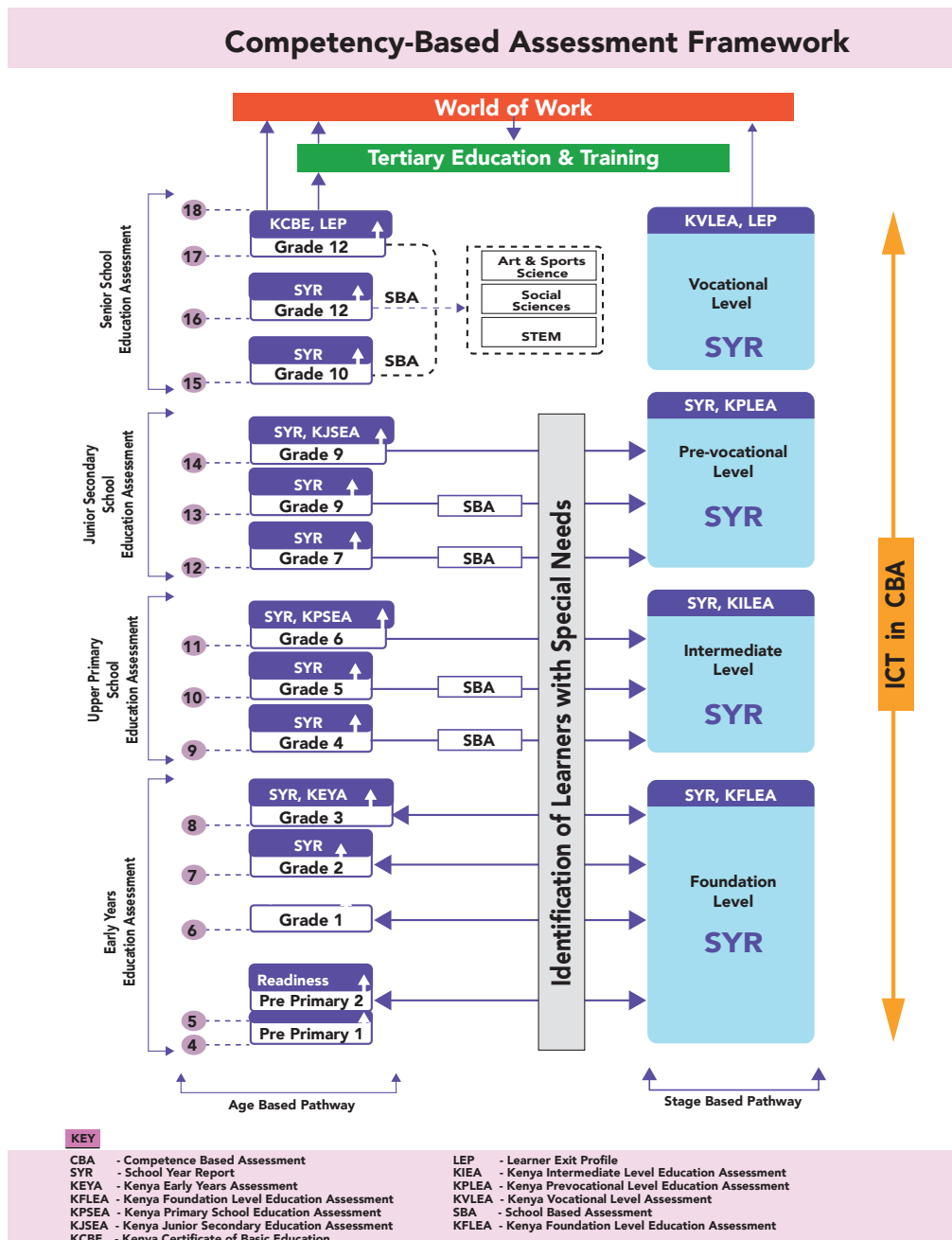
Fig. 2.5: Competency-based assessment framework

Implementation of CBAF has faced challenges, especially in the utilisation of formative assessments for learning and feedback. Assessment of values mainstreamed in the curriculum has not been fully realised. The administration of SBA has introduced additional costs and the question of integrity in terms of the authenticity of scores uploaded onto the KNEC portal. Consequently, the administration of the summative assessment in the form of an examination at Grade 6 received a negative reaction from the general public. It is also noteworthy that the CBAF has not provided clear

guidance on the selection and placement of learners into the various career pathways at Senior School.

2.3.4.1 Views from Stakeholders on Assessment and Examinations

The stakeholders raised concerns over the integrity of formative assessment, citing compromised scores uploaded into the KNEC portal by the teachers and commercial agents at the internet cyber cafes. In this regard, the stakeholders recommended that external assessment by the KNEC should carry more weight in determining the overall performance of learners. Some of the sentiments are expressed in the following verbatim excerpts:

> *Assessment should be reversed such that the School Assessment contributes 40% while the national Assessment contributes 60%* (RESP023).
>
> *Prevent the uploading of 'fake' scores, cheating and relying on fake data to make decisions on the future of Kenyan children and youth* (RESP024).
>
> *There is an issue with the credibility of school-based assessments due to the use of cyber to download and print* (RESP025).

Some stakeholders noted that many schools experienced challenges downloading and printing the assessment tools due to inadequate ICT infrastructure, poor internet connectivity and the incurred cost. It was further noted that there were many inconsistencies in the scoring of SBA by the teachers who did not maintain assessment records. Additional verbatim reports were captured as follows:

> *Projects in the Assessment are expensive to parents and have caused conflict between teachers and parents whereby parents feel teachers demand too much of their resources and time* (RESP026).
>
> *There cannot be a unified assessment as the environments are different* (RESP027).
>
> *The assessment parameters differ from one school to another* (RESP028).

Stakeholders also indicated that it was necessary to decentralise KNEC services to the counties for effective monitoring of CBA and capacity building of teachers on matters related to assessment. In Junior School, it was proposed that the assessment for placement of learners to their various career pathways should take into consideration other abilities of the learner, such as personal attributes and interests, instead of relying on the summative assessment alone. Further, the stakeholders proposed the abolishment of a national examination at Grade 6.

2.3.5 Summative Evaluation of the Competency-Based Curriculum

Summative evaluation for CBC was necessary at the end of the Primary education cycle to get feedback on the extent to which it was implemented in order to inform adjustments and improvement. This is in line with global best practices that show countries carry out summative evaluations periodically or at the end of a learning cycle. For example, Australia periodically evaluates and revises its curriculum using

review panels or committees of experts, educators, and key stakeholders. Summative evaluation of an education system entails measuring and judging the extent to which the planned courses, programs, learning activities, or any other form of engagement expressed in the curriculum frameworks produces the expected results (UNESCO, International Bureau of Education, 2013).

In order to carry out the summative evaluation of CBC, the PWPER formulated the following objectives:

(i)   Establishing the extent to which the learning outcomes had been achieved;

(ii)   Determining the suitability of the curriculum designs and instructional materials;

(iii)   Assessing the level of digital literacy among learners;

(iv)   Finding out the effectiveness of the assessment approaches;

(v)   Determining the level of involvement of key stakeholders in the learning process; and

(vi)   Obtaining suggestions for improvement of CBC.

In order to complete the summative evaluation, the PWPER reviewed all literature on CBC and assessment, the monitoring and summative evaluation reports from KICD, KNEC, UWEZO, KNUT, and NASMLA on the various aspects of CBC implementation. Further, the PWPER developed an instrument and conducted an independent evaluation in 47 counties and the diaspora. The outcomes of summative evaluation are reported in this Section.

The KICD Summative Evaluation Report (2022) for the Primary school cycle on the learning outcomes is presented in Figure 2.6.
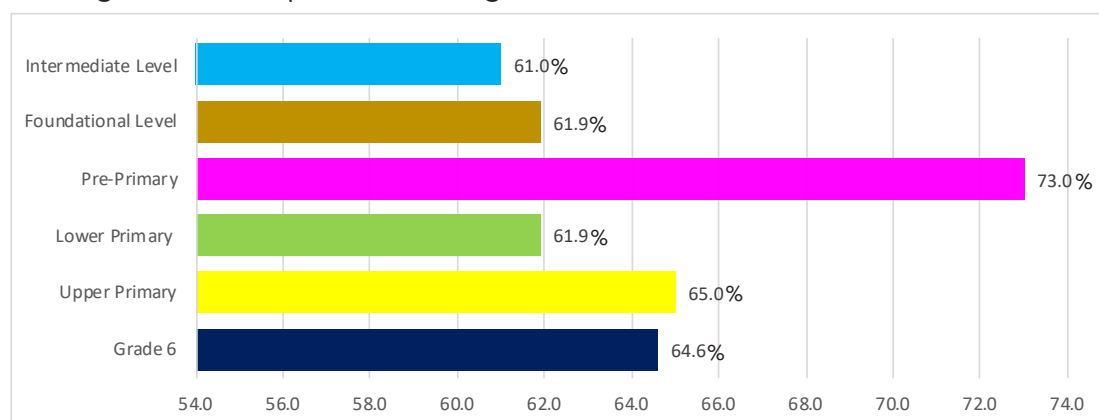
Fig. 2.6: Attainment rating of learning outcomes at various levels of CBC

The attainment of outcomes at the Pre-Primary level was the highest at 73.0%, while the Intermediate level had the lowest rating at 61.0%. The KICD findings further indicated that the attainment of Digital Literacy was low at 47.6%, raising concerns about the success of CBC since it is one of the core competencies. On core competencies, Communication and Collaboration was the best developed among

the learners at 71.4%. The Stage-based pathway recorded a lower rating than the age-based pathways pointing to the need for interventions to address the challenges of the special needs of learners.

The findings also revealed that the curriculum designs and support materials were rated at 61.4% for meeting the scope, presentation of content, and differentiated learning. The suitability of the supplementary materials was rated at 55.2%, meaning that they were moderately suitable for supporting learning. It was also established that mainstreaming and integrating VbE, PE&E, CSL, and PCIs in the teaching and learning process was not fully understood and operationalised. The report identified various challenges that the schools faced, posing the risk of compromising the quality of education and the full rollout of CBC. The challenges included: Inadequate digital literacy and capacity; lack of access to essential infrastructure like swimming pools and Home Science and Physical Health Education facilities; overload and overlaps in the curriculum designs; low parental engagement, and inadequate assistive devices for SNE.

A review of the KNEC Report (2022) revealed that the scores of the SBAs and the Summative Assessment at Grade 6 had no significant difference. This means that the formative assessment tools and approaches at the school level are progressively being implemented hence embracing the shift from pure examinations to a balance between formative and summative assessment.

A summative evaluation report conducted by Kenya National Union Teachers (KNUT) in 2019 established that there were several factors that affected implementation of CBC. These included inadequate trained teachers, learning resources and ICT in education facilities.

On foundational learning, research findings of 2018 by the National Assessment Systems for Monitoring Learner Achievement (NASMLA) indicated low literacy rates in Early Years Education (EYE) due to: Inappropriate teaching methodologies, inadequate instructional materials among learners, and lack of support and supervision for various implementers. These findings corroborate the report on numeracy and literacy in Kenya, which revealed that learning levels in early years were static (Uwezo, 2014). Further, it was established that public schools were least prepared for digital learning, with only seven out of 100 learners in public Pre-Primary schools able to access digital learning platforms (Uwezo Report, 2020).

The Uwezo (*ibid*) report showed that at least half of the learners meet expectations in numeracy. In contrast, only 40% of learners meet expectations in literacy at Grade 4 when exposed to Grade 3 content. Notably, there was no significant difference between the performance of males and females. This means that all children, irrespective of gender, could perform equally well given a conducive learning environment. In CBC, learners are expected to develop competencies in foundational learning in the Early Years of Education (EYE). However, research findings indicate that learners are not meeting these expectations.

2.3.5.1 Views from Stakeholders on Summative Evaluation of CBC

There were 1,271 submissions on issues related to instructional materials. Most

submissions (50.0%) recommended that the Government provide instructional resources beyond books. A proportion of 18.9% of the submissions stated that schools had inadequate instructional materials, with 14.6% indicating that books provided by the Government were of poor quality in content and material. The one textbook per learning area/subject was based on the cheapest rather than the best in content quality. Other areas of concern raised were oversupply and undersupply of textbooks, while some learning areas lack books completely. The following were verbatim excerpts from selected submissions:

> *Just provide enough teaching/learning materials for ECDE and specifically for reading at an early age* (RESP001).
>
> *Books to be evaluated afresh since some are shallow with repeated information that is not necessarily needed* (RESP002).
>
> *KICD to review the designs to re-align the content to make it possible for Primary school teachers to handle comfortably* (RESP003).

Regarding infrastructure in educational institutions in the country, 22.9% of the submissions indicated that learners were congested in classrooms. In comparison, 23.2% of the submissions noted inadequate ICT infrastructure for effective digital learning. Further, 26.0% of the submissions cited financial constraints as a factor in the inadequacy of infrastructure.

On learning areas, the stakeholders indicated that the number was high for the learners to cover within the available time and resources effectively. In some learning areas like Creative Arts, a conglomerate of subjects like Music, Art and Craft were bundled together and taught by different teachers as distinct subjects. Some learning areas, such as Creative Arts and foreign languages, lacked qualified teachers to handle them effectively.

Discussions on CBC took centre stage during the stakeholders' engagement forums at the County and national level. It was clear from the submissions that the public had not been adequately sensitised on CBC, leading to misinformation. Furthermore, there were pertinent issues raised concerning overload, overlaps, suitability of instructional material and attainment of learning outcomes were issues of concern.

2.3.6   Technology in Education

The use of technology in curriculum development, delivery and assessment is progressively becoming the new normal. The emerging trends in education have sparked an exponential increase in the number of learners using technology and signing up for e-learning. The disruption in the education calendar caused by COVID-19 led to a rise in the number of users leveraging technology to provide, access and use educational services. During that time, there was a sharp increase in the amount of digital content and learning resources available to learners and teachers. To bridge the digital divide, the Government has been progressively addressing the inadequate infrastructure for e-learning at all levels of education and training as well as the capacity needs among teachers. However, one of the challenges of past e-learning programmes was the provision of ICT equipment to educational

institutions with little or no support for teachers' professional development (Reimers & Schleicher, 2020).

In the Pre-Primary level, there are several functional computers and tablets available for educational use. The technology infrastructure in terms of computers and tablets, as well as functional internet connectivity in Pre-Primary, is presented in Table 2.2.

Table 2.2: Number of Computers in Public vs Private Pre-Schools and Internet Connectivity

Category	Computers/Tablets	Internet (%)
Public	95,722	14.9
Private	24,320	44.5
All	**120,042**	**22.4**

Source: MoE, 2021

In public Primary schools, the Government introduced a flagship programme in 2013 of provision of laptops to learners. In addition, the Government deployed digital devices, which included Learner Digital Devices (LDD), Teacher Digital Devices (TDD), a projector and a Content Access Point (CAP), which also served as a router for internet connectivity.

Regarding power connectivity, 82% of public Primary schools were connected to electricity through the national grid and 14% through solar energy under the Digital Literacy Programme (DLP). The status of power connectivity in public Primary schools across the country by the year 2020 is reported in Table 2.3.

Table 2.3: Electric/Solar Power Connectivity Status in Public Primary Schools

Item	Number	Percentage
Total No of Schools	24,825	100
Number of Schools on Grid Supply	19,042	76.7
Number of Schools on Solar Supply	3,239	13.1
Schools not connected to electric power	602	2.4
Schools with intermittent electric power supply	1,862	7.5
Schools disconnected due to unpaid bills and other related issues	80	0.3

Source: MoE, 2020

Despite the Government's efforts to address inadequate energy and technology infrastructure, other challenges still exist. Digital literacy remains low among learners and teachers. In some parts of the country such as Wajir, Mandera, Turkana and Marsabit internet connectivity remains poor. The costs of digital devices also limit access to digital content.

2.3.6.1 Views from Stakeholders on Technology in Education

The stakeholders observed that the use of technology among learners promotes the positive development of core competencies, especially digital literacy. However, the inadequacy of resources for learning and management; and limited ICT infrastructure remained a challenge. The stakeholders decried the idle ICT capacity in teacher training colleges while the neighbouring basic education institutions lacked such facilities. Many teacher educators did not have access to digital devices to enable them to integrate technology into the learning process. Relatedly, teacher educators and teacher trainees do not have access to the Internet all the time and where it is available, the bandwidth is below 1 GB. On access to technology, stakeholders gave the following sentiments:

> *Ensure connectivity, accessibility and affordability of technology and ICT infrastructure that can facilitate hybrid learning* (RESP083).
>
> *To be ICT compliant, we need internet connectivity, something lacking in most of our schools. Teachers dig deep into their pockets to buy bundles in order to access the digital content for teaching* (RESP088).

In summary, low internet connectivity limits the effective use of ICT in learning; where there is connectivity, institutions tend to underutilise the technology for curriculum delivery and management.

2.3.7 Data Tracking for Education and Management

A tracking system for education in Kenya has been implemented through the National Education Management Information System (NEMIS), which was launched in 2018. The tracking system was expected to been the single source of truth on data and information for all Kenyan learners in school under the age of 18 years in basic education. It was designed to provide quality data that is reliable, relevant, and easily accessible. The adoption of a NEMIS framework was intended to ensure effectiveness, efficiency and seamless integration of all Education Management Data.

Tracking systems for education provide a time-saving, accurate and secure platform to generate reports on various aspects of learning. Such data is important for decision-making by the Government. The best global practices show that effective tracking systems start at birth, where every child is given a unique personal number to be used at all levels of education.

In Kenya, NEMIS only covers learners in basic education. Learners in Tertiary and vocational institutions and those out of school are not captured in the database. As a result, the tracking system fails to identify all the eligible learners that need to be absorbed into the education system at the expected time, thus denying youthful Kenyans an opportunity to benefit from the education services.

2.3.7.1 Views from Stakeholders on Data Tracking for Education and Management

The stakeholders proposed that the tracking system should start at birth to inform learners' enrolment in schools and for capitation purposes. They noted that there

should be only one tracking/identification method. Either Universal Personal Identifier (UPI) or Assessment Number for each learner.

Stakeholders also noted that the adopted tracking system should ensure no school dropouts and force parents to take their children to school. In their submissions, some stakeholders emphasised the need for the Government to ease the registration of births and issuance of birth certificates. Stakeholders were of the view that a tracking system was key in mopping up all eligible learners into schools, as depicted in the following excerpt:

> *Enhance a tracking system to capture and enrol children of school going age to ensure universal access to Pre-Primary, Primary and Secondary education* (RESP091).

Stakeholders also emphasised the need to harmonise and update school/educational institutions databases; adopt a universally unique identifier for learners and educational institutions; develop an overarching policy and legal Framework to guide the development, implementation and sustainability of a harmonised NEMIS; automation of data management for all levels of education and data producers; access and utilisation of timely education data for decision-making by all; and institutionalisation and building capacity for education data management in the Ministry of Education.
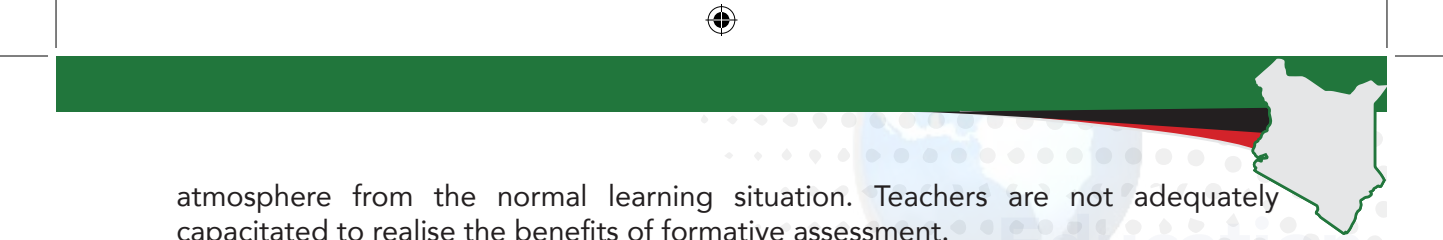
2.4 Conclusion and Recommendations

2.4.1 Conclusion

Findings show that CBC is good for the country; it has great potential to lay a strong foundation for relevant human capital development, which is required for societal transformation and sustainable development. There is significant support for CBC in the country, but there is a need to reform aspects of curriculum delivery and implementation in order to achieve the desired objectives. Accordingly, the PWPER infers that learning outcomes have not been fully achieved neither have the desired competencies been fully developed. Despite the existence of various frameworks for VbE, CSL, PE&E, their implementations have not been fully operationalised. The frameworks do not adequately address some key concerns, such as informal and non-formal dimensions of learning, structured chaplaincy and counselling programmes, sensitisation of parents and the community, and overloads and overlaps of CSL projects.

The education structure covers only basic education and does not include Tertiary education, APBET and Adult and Continuing Education (ACE). Best global practice shows that Tertiary education lasts a minimum of three years and comprehensive schooling is adopted for Primary and Junior School levels. The current categorisation of public Secondary schools promotes inequality, while marginalised groups have difficulties accessing educational institutions.

On assessment, there are no clear guidelines on the identification, selection and placement of learners into the various career pathways and into Tertiary institutions. The high stake examinations have led to malpractices and credibility issues. The deployment of police officers during national examinations creates a different

atmosphere from the normal learning situation. Teachers are not adequately capacitated to realise the benefits of formative assessment.

The number of learning areas in basic education, as presented in **Appendix 2.1**, is high, with a heightened demand for time and resources for learners, teachers and parents. Some learning areas, such as indigenous and foreign languages and SNE, do not have Learning and Teaching Materials (textbooks), and publishers show no interest in developing such materials. Kenya Institute of Curriculum Development, the publisher of the last resort, has inadequate capacity to publish such materials.

The findings show a serious concern about foundational learning with low levels of literacy and numeracy. At the same time, digital literacy has remained low, especially in public schools and among teachers and parents. Poor Internet connectivity, inconsistent power supply, lack of digital or faulty devices, and low digital literacy among teachers and parents combine to weaken digital literacy. The findings further point to gaps in NEMIS in tracking all eligible learners, out-of-school children and those in Tertiary and Vocational institutions.

2.4.2 Recommendations on the Implementation of Competency-Based Curriculum

1. Adopt a 2-6-3-3-3 Education Structure: 2 years Pre-Primary School; 6 years Primary School, 3 years Junior School (JS), 3 years Senior School (SS) and a minimum of 3 years at University. MoE to establish a comprehensive school system where all levels of learning from Pre-Primary to Grade 9 are managed as one institution headed by Head of Institution; TSC to provide career progression guidelines for teachers in comprehensive schools; and provide guidelines on Alternative Provision of Basic Education and Training.

2. KICD to rationalise the number of learning areas and curriculum designs in terms of scope, integration of subjects within a learning area, gaps, content overload and overlaps in Basic Education as follows:

    (i)   Pre-Primary (PP1-PP2): the learning areas not to exceed five (5);

    (ii)   Lower Primary (Grade 1-3): The learning areas not to exceed seven (7);

    (iii) Upper Primary (Grade 4-6): The learning areas not to exceed eight (8);

    (iv)   Junior School (Grade 7-9): The learning areas not to exceed nine (9);

    (v)   Senior School (Grade 10-12): The learning areas not to exceed (7) Subjects; and

    (vi)   Review CSL to reduce overload, overlaps, cost and promote community linkages; and adapt all SNE learning resources including those for stage based curriculum at levels of basic education.

3. MoE to discontinue categorisation of public Secondary Schools from the current nomenclature (National, Extra-County, County, and Sub-County) to career pathways (STEM, Social Science and Arts and Sports Science) at Senior School; and to enhance equity and inclusion, promote the establishment of low-cost boarding Primary schools in marginalised areas; focus on infrastructural and resources support for sub-County Senior Schools to offer the three pathways.

4. KNEC to review the Competency-Based Assessment Framework to restructure

KPSEA for purposes of monitoring learners' progress and providing feedback to stakeholders — not for placement; provide an assessment framework for Alternative Provision for Basic Education and Training; develop mechanisms for administering assessments within the school daily routine. Assessment for various levels to be as follows:

(i) At Grade 6: KPSEA to be computed as cumulative score of SBAs for Grade 4-6 for purposes of monitoring learners' progress and providing feedback to stakeholders;

(ii) At Grade 9: To comprise 20% of KPSEA, 20% of SBAs in Grade 7 and 8 and 60% summative evaluation at Grade 9; and

(iii) Grade 12: To comprise 70% summative assessment and 30% (SBAs; Assessment of CSL, values and competencies).

5. Integrate key tenets (VbE, CSL, PE&E) to support successful implementation of CBC at all levels of Education and Training. MoE to provide structures and guidelines to implement a Whole School Approach to the implementation of VbE; structured religious/moral instruction and Counselling programs; sensitise parents, caregivers, guardians and the community on their role in the learning process.

6. MoE to provide for:

(i) Selection and placement of learners into career pathways to Senior School based on performance and personal interest.

(ii) Computation of KCSE mean score by KNEC to be based on Mathematics, English/Kiswahili, and 5 other best performed subjects.

7. MoE to review the policy guidelines on textbooks and other instructional materials to:

(i) conform to the revised curriculum designs;

(ii) ensure that the best two evaluated textbooks by KICD are supplied to each public school and strengthen KICD's capacity to publish course books in areas where publishers do not submit manuscripts for evaluation.

8. Restructure SEPU to School Learning and Instructional Materials Centre (SLIMC) to coordinate the procurement and distribution of MoE approved textbooks and other learning resources. KICD to liaise with School Learning and Instructional Materials Centre (SLIMC) in facilitating procurement of digital resources hosted in Kenya Education Cloud (KEC).

9. MoE to develop guidelines on foundational learning for Early Years Education.

10. MoE with support from MoICT to leverage technology at all levels of education by developing ICT infrastructure for curriculum delivery; improve digital literacy among teachers, parents and other key stakeholders.

11. The Ministry of Education and Ministry of Interior's Civil Registration Services to integrate registration of births with EMIS and provide a unique identifier for every child from birth. EMIS to be restructured and renamed Kenya Education Management Information System (KEMIS).

12. Develop the capacity of KNEC to print National Assessments in Kenya.

CHAPTER THREE

QUALITY ASSURANCE AND STANDARDS

3.1   Introduction

Quality assurance and standards is a critical pillar of an education system. This was underscored in a resolution where countries pledged to improve education quality at all levels, from Pre-Primary to tertiary, during the World Education Forum in Dakar in 2000. An educational system that meets specified standards caters to basic learning needs and enhances students' overall learning experience (UNESCO, 2000).

A framework is an essential supporting structure or a basic system (Oxford Dictionary). The purpose of the Education Standards and Quality Assurance Framework is to ensure that the goals and objectives of education are met at the school level. The focus is overseeing and promoting educational process standards, particularly curriculum implementation and delivery (OECD, 2017).

This Chapter presents findings and makes recommendations on the quality assurance and standards framework as per the ToRs of the PWPER, which requires it to study, assess and make recommendations on the quality assurance and standards framework. The chapter begins by examining global practices on quality assurance and standards. This is meant to draw important lessons on which to anchor any recommendations. The chapter also discusses the key findings by the PWPER, especially from consultations with stakeholders.

3.2   Global and Regional Context

All countries worldwide have established education quality assurance and standards systems to ensure that education in their respective educational goals and objectives are attained. Each has established a quality assurance and standards system to ensure that education is delivered as envisioned. However, the role and character of Quality Assurance and Standards (QAS) varies from country to country under the two broad approaches of centralised and decentralised systems.

Centralised QAS systems to oversee the delivery of education services at the school level have been established in several jurisdictions, especially in Europe. To ensure that schools deliver education to the expected quality levels in terms of educational content, learning environment, school management among other critical aspects of education, some countries have established independent Inspectorates. In addition, some countries have established decentralised state quality assurance and standards operations while others allow school administrations to conduct

inspection and supervision of teachers teaching and provide appropriate reporting to the policymakers. Robust quality assurance and standards systems ensure that educational goals and objectives are attained, and barriers or bottlenecks to their attainment are addressed or minimised as is the case in Canada. *(Appendix 3.1)*.

Various assessment methods and tools are used in school inspections, with external assessment often involving standardised QAS monitoring tools and internal checks using internal self-assessments of QAS. Adherence to standardised inspection procedures set out in an education inspection framework and Handbooks published by inspectors is key, as evidenced by Office for Standards in Education, Children's Services and Skills (OfSTED) of the UK. They outline the expected inspection standards and process in detail. In addition, inspectors have a set of indicators to evaluate settings and their performance. School self-evaluation and assessment data submitted into a QAS framework that is managed online improve adherence to standards, as seen in India.

Reporting and dissemination processes are critical in QAS in making the feedback accessible to education stakeholders while focusing on learners' progress and needs. The results from inspection or monitoring are made public in most countries, except for some assessments. For example, in Finland, evaluation results are publicly available. In Norway, the results of inspections are open to the public upon request, including aggregated results of staff evaluations. Individual staff evaluations are not publicly available due to privacy concerns. In the UK, OfSTED mandates institutions to circulate a copy of the assessment report to all registered parents within stipulated days of receipt of the final report. OfSTED also reports findings to Parliament and education commissioners to improve education and training.

Most monitoring and evaluation frameworks worldwide incorporate a system of rewards and sanctions to ensure compliance with the highest quality standards in education. Sanctions are imposed for not meeting quality in education standards and may include funding cuts, follow-up inspections, compulsory staff training, or closure of services. In the USA, sanctions include warnings, suspension of school licenses and dismissals. In contrast, in South Africa, revoking the accreditation of programs, imposing fines on institutions, and issuing warnings for non-compliance are used. Rewards for positive quality assurance outcomes are provided in South Africa, Finland, Ghana, the USA, and Singapore. These include remunerations, promotions, recognition and accreditation of programs or institutions, and providing training and professional development. As is the case for India, continuous improvement is promoted using sanctions or rewards.

Countries often participate in transnational education monitoring, evaluation, and learning assessments to ensure adherence to standards and quality in education through QAS systems. For example, the USA, Singapore, India and Finland participate in international assessments, including Program for International Student Assessment (PISA), Trends in International Mathematics and Science Study (TIMSS), and Progress in International Reading Literacy Study (PIRLS). In addition, South Africa and Ghana participate in regional assessments, including International Network for Quality Assurance Agencies in Higher Education (INQAAHE); Southern African Regional

Quality Network (SAQN); Southern and Eastern Africa Consortium for Monitoring Educational Quality (SACMEQ); and the West African Examination Council.

Africa Union's Agenda 2063 through its Continental Education Strategy for Africa (CESA) 2016-2025 underpins the quality of education measured by learning outcomes as critical in achieving Agenda 2063 (African Union Commission 2013). The strategy calls for enhancing quality assurance and assessment mechanisms for learning outcomes, among other key recommendations. The East African Community (EAC) region has instituted various educational reforms, such as harmonising the education and training curricula, standards and assessment, and evaluating education and training programs. This amplifies the importance of harmonised standards that are regionally accepted.

3.3   National Context

The Ministry of Education, through the Directorate of Quality Assurance and Standards, developed the National Education Quality Assurance and Standards Framework (NEQASF) in 2021 to enhance the quality of Basic Education in Kenya. Before that, there was no documented framework though there were documents that addressed specific aspects of a framework. The mission of NEQASF is to establish, maintain and improve Education Standards in Kenya.

The framework encompasses education quality standards and indicators for basic education institutions. The developed standards take cognisance of the critical education quality components/dimensions: School leadership and management, curriculum organisation and implementation, infrastructure, learner welfare, and community involvement.

The standards serve as guiding principles during assessments and enable stakeholders to objectively and comprehensively judge a Basic Education institution as excellent, very good, good, fair, or poor. They also enable schools to self-evaluate, driving continuous improvement and implementation of standards. The framework allows for the identification of strengths and weaknesses so that schools may maintain effective school management systems, improve the quality of education provided and raise the educational standards learners achieve.

This comprehensive package utilises self-school evaluation, peer reviews and external evaluations to measure the quality of Basic Education and the processes provided therein. ICT-enabled mechanisms, including the National Education Quality Assurance and Standards Framework (NEQASF) Portal within the National Education Management Information System (NEMIS), have been established to enable efficient monitoring and feedback on education quality. This system has a dashboard that allows quick feedback and analysis of assessment data and the storage and archiving of reports for future use. Additionally, digitised tools enable real-time reporting by emailing assessment reports to institutions immediately upon the conclusion of an assessment.

However, a challenge with reporting is weak follow-up to ensure schools implement recommendations. Many disregard the reports because, among other reasons, there is no legal requirement to compel stakeholders and identified actors to implement recommendations. Also, the absence of rewards and sanctions weakens compliance

with reports. This also leads to delay in the enforcement of recommendations. Overall, the Directorate of Quality Assurance and Standards reports on assessment and recommendations are hardly enforced by relevant stakeholders. As a result, there is compliance apathy and poor curriculum implementation because of this gap.

The framework also has several gaps that should be addressed for effective implementation. These include incomplete standards for the Competency-Based Curriculum, lack of teacher standards, lack of standards and quality assurance mechanisms for STEM education, home and online schooling, and the absence of a manual for implementing and utilising the ICT-enabled assessment framework for Institutional-Based Quality Assurance (IBQA).

A key component of NEQASF is the human resource function. This component is anchored in the Directorate of Quality Assurance and Standards (DQAS) in the Ministry of Education *(Appendix 3.4)*. The Directorate, however, lacks adequate human resources, which is worsened by the deployment of its staff to other directorates in the Ministry of Education. Further, the capacity of the staff to develop, assess, and maintain inclusive education standards needs is weak. For example, a baseline survey found that DQAS officers were not assessing special schools and units, Adult and Continuing Education centres, among other speciality areas, due to a lack of appropriate knowledge and skills.

Implementation of NEQASF requires resources to acquire and maintain the necessary infrastructure, implement processes and sustain operations. Resources are also required for national rollout activities and the implementation of IBQA. Unfortunately, the Directorate suffers from perennial resource constraints, as evidenced by the Ksh.35 million allocated for QAS functions in the 2022-23 financial year, which is grossly inadequate for financing QAS activities nationally.

The collaboration component of NEQASF has not been effective. For example, one key consumer of quality assurance and standards reports is the TSC. However, TSC operates a directorate similar to the one at the Ministry and has deployed officers who conduct quality assurance functions in basic education institutions, thereby interposing the authority and function of DQAS in MoE. This has created parallel structures, which have caused challenges, ambiguities, wastage of resources, and low or halfhearted enforcement of QAS reports. Notably, its assessment recommendations are hardly enforced, leading to non-compliance with the laid-out standards and low-quality curriculum implementation. This also goes against the principles of NEQASF *(Appendix 3.2 and 3.3)*.

The Ministry is responsible for the teaching and learning environment and the quality of teaching and learning in learning institutions. The Ministry of Education determines the curriculum content—national curriculum specifications, textbooks, support materials, and pedagogic knowledge. In addition, the Ministry determines staffing needs in schools. The Ministry registers schools and determines the number of teachers required and their respective specialities based on the curriculum spread and load. Thus, it prepares Curriculum Based Establishment (CBE) as NEQASF prescribes.

Currently, the TSC deploys teachers to schools directly and without reference to the

Cabinet Secretary of Education. It also makes redeployments of the same teachers from school to school without reference to the Cabinet Secretary for Education.

The manner in which TSC makes its independent decisions on deploying and redeploying teachers to public schools has created a challenge to the Ministry of Education's capacity to superintend the effective execution of education policy, standards, and curricula. That is, while the Ministry of Education formulates policies in liaison with other institutions and stakeholders, it does not have any role to superintend the execution of these policies at the school level.

Furthermore, the teachers are not answerable to the Cabinet Secretary responsible for education. They are deployed to implement MoE policies, standards and curricula, but are not accountable to the Ministry of Education. The lack of linkages affects the guarantee of quality assurance and standards in the Basic Education sector.

3.3.1   Views from Stakeholders on the Education Quality Assurance and Standards Framework

During the public hearings, the County and National Forums stakeholders made 698 submissions on quality assurance and standards. They made various observations on how well QAS is adhered to. The stakeholders' views – and specifically their concerns regarding quality assurance and standards — are discussed in this Section, and a summary is shown in Figure 3.1.
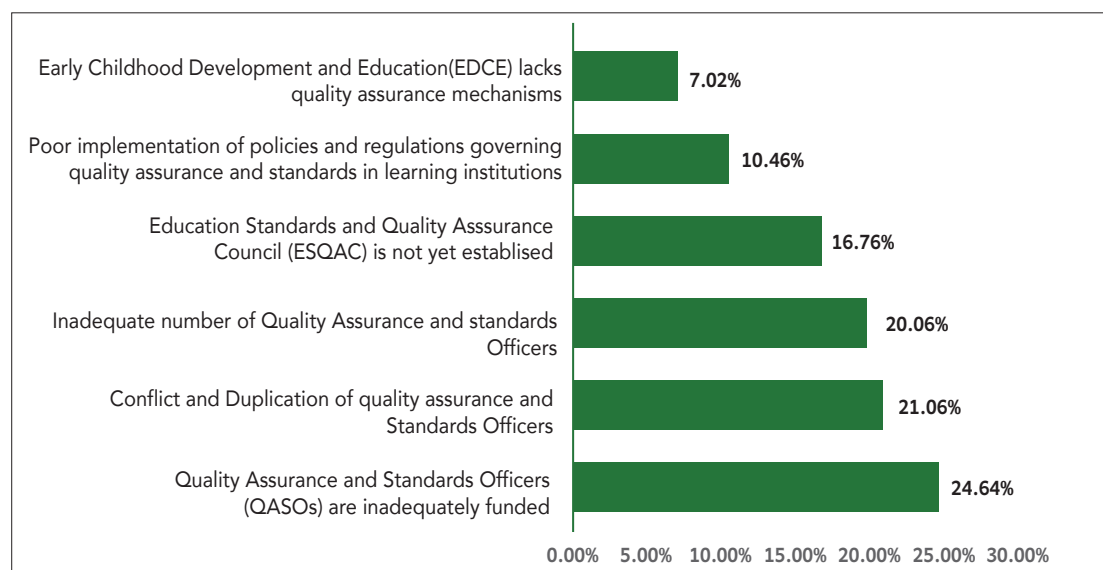
Fig. 3.1: Issues raised by the stakeholders on the status of quality assurance and standards

As shown in Figure 3.1, 16.76% of stakeholders observed that:

> *Education Standards and Quality Assurance Commission (ESQAC) remained unestablished and operationalised as Prof. Douglas Odhiambo Commission recommended and envisioned by the Basic Education Act of 2013. As a result, ESQAC should be established as Prof. Douglas Odhiambo recommends* (RESP029).

Further, the legal and policy frameworks did not clearly articulate the working relationship between the DQAS and the respective agency departments on Quality Assurance at curriculum development (KICD) and assessment (KNEC).

Some of the stakeholders voiced their opinions as follows:

> *Let the Ministry officials' roles in education be defined and that of TSC, they are conflicting* (RESP032).
>
> *TSC has infiltrated and hence duplicated the roles by QASOs in, among others, training and assessment* (RESP033).

The stakeholders observed that the functions of QAS appear to be shared by MoE and TSC. Duplication of QAS functions in The Ministry of Education (MoE) and Teachers Service Commission (TSC). This challenge has created jurisdictional conflicts, rendering the supervision and maintenance of set education standards ineffective, inefficient, and in some cases, dysfunctional (21.06% of stakeholders).

The Directorate of Quality Assurance and Standards shares the assessment reports it prepares with relevant stakeholders, including TSC and school boards of management, with recommendations for implementation. Stakeholders observed that:

> *Reports of Ministry's Quality Assurance and Standards Officers are not honoured, and recommendations not acted on by TSC and other agencies in line with Basic Education Act, 2013* (RESP031).

In addition, "insufficient information about the quality of education in various schools makes it difficult for parents to make informed school selection decisions. A proposal to establish a mechanism for reporting on education quality in schools and making these reports easily accessible to the public was made.

The stakeholders also observed that MoE has inadequate and ineffective human and institutional capacities critical for effectively delivering the statutory and advisory QAS mandate. For example, submissions from QAS officers noted that:

> *MoE does not facilitate relevant professional courses to build capacities of QASOs in such areas as M&E and reporting, data analytics and forensics, even though they joined DQAS with only the basic background in teaching* (RESP030).

It was also observed that educational institutions that offer capacity building in Kenya lack courses specifically designed for Quality Assurance and Standards Officers. There is, therefore, a need for retraining in pertinent professional courses such as monitoring, evaluation, reporting, data analytics, and forensics.

Submissions from stakeholders (24.64%) identified financing of QAS functions as a key deterrent to the efficient execution of the DQAS mandate. Consequently, inadequate funding for the Directorate of Quality Assurance and Standards has hindered its capacity to perform its duties successfully.

Stakeholders noted that:

> *There is no existing policy framework for collaborations between countries and participation of Kenyan students in regional and international assessments. There is no framework to guide Program for International Student Assessment (PISA), Trends in International Mathematics and Science Study (TIMSS), and Progress in International Reading Literacy Study (PIRLS) in the NEQASF framework* (RESP074).

Further, stakeholders noted that:

> *Existing standards for quality assurance in Basic Education are scattered in several manuals and guidelines, making it difficult for educational institutions, partners, and investors to access them* (RESP075).

They also pointed to the:

> *Need to document policies and guidelines for enforcing education standards and quality assurance during non-compliance. Propose incentives for schools that meet or surpass benchmarks to encourage adherence to standards and outstanding educational excellence* (RESP076).

It was observed that there was a "Lack of incentives for schools to meet or exceed benchmarks. The recommendation suggested was "to create incentives for schools to encourage and recognise excellence in education."

Others (20.06% of stakeholders) stated:

> *"QASO's are working so much below their capacity due to shortage of personnel. At the moment, there is only one QASO per office instance, one at the regional office, one at the County office, one at the sub-County office and worse still, there are sub counties without any, like Taita Sub-County have lived without a QASO now for close to three years* (RESP078).

The stakeholders suggested that the Government should "hire additional QAS officers and deploy them to each County to ensure adequate quality assurance services are provided."

3.4   Conclusion and Recommendations

3.4.1   Conclusion

From the foregoing, it is clear that effective QAS services in Basic Education are critical to achieving the country's education goals. Moreover, it is crucial to promote a robust education system that meets international standards.

The critical role of Quality Assurance and Standards in the provision of quality education is recognised in global and regional education systems. Globally and regionally, countries have strengthened and empowered their quality assurance and standards organs to carry out their work effectively and efficiently. They have given them legal, financial and operational autonomy to carry out their functions—supporting the

policymakers in achieving their policy objectives.

Similarly, Kenya has recognised the role of quality assurance and standards as an important organ in ensuring quality education is delivered at the school level. However, DQAS in the Ministry of Education faces challenges which have affected its capacity. For example, it faces staff shortages and concurrent powers with TSC, which has created jurisdictional conflicts, financial and infrastructural constraints, training, and improper deployment of QAS officers.

The adoption of NEQASF in 2021 was an important step in providing a clear framework for assuring quality and standards in the basic education sector. However, NEQASF has several weaknesses including lack of some standards such as Home and online schooling, gaps in some existing standards, lack of implementation tools and weak mechanisms for enforcement. In addition NEQASF lacks universally acceptable standards that provide appropriate reciprocity to promote international recognition and confidence in the national education systems and institutions.

These findings imply that for Kenya's education to be transformative, impact the economy and ensure sustainable development, the Quality Assurance and Standards function must be centralised, focused, effective and efficient. This calls for an urgent internal transformation of the Quality Assurance body, mandate, systems and processes.

3.4.2   Recommendations on Quality Assurance and Standards

1. The Government should harmonise the quality assurance function in the Basic Education sector by ensuring that MoE QAS Directorate has legal authority to oversee Quality Assurance and Standards function. Accordingly, the Quality Assurance and Standards function at the Teachers Service Commission should be transfered to the Ministry of Education. This harmonisation of QAS functions should be anchored in law.

2. Strengthen the Directorate of Quality Assurance and Standards through appropriate legislation, financing, staffing and capacity building.

3. The Directorate of Quality Assurance and Standards be conferred with operational powers in law to enable it to enforce laws, regulations, policies, and guidelines of MoE and any other MDAs that pertain to Basic Education institutions. The powers shall include but are not limited to, the power to order the immediate closure of institutions that contravene set regulations and to establish a system of rewards and sanctions.

4. The Ministry of Education should comprehensively review the National Education Quality Assurance and Standards Framework (NEQASF) to address the gaps, align it to international standards and improve its efficacy in assuring quality in education.

5. The Ministry of Education should consolidate and publish all prescribed Basic Education standards for easy access by all stakeholders.

6. The Ministry of Education should develop a framework for participation in regional and international quality assurance fairs and competitions for students.

CHAPTER FOUR

TEACHER EDUCATION AND MANAGEMENT

4.1 Introduction

Kenya has made great progress in teacher education and management, making it a top performer in Eastern and Southern Africa (Kenya Economic Report, 2021). Teachers remain a critical component of the education sector as the focal persons to drive learning. However, Kenya still lags behind at the global level in attracting, developing and retaining effective teachers. Therefore, proper management of the profession and welfare of teachers is necessary for sufficiency and efficiency in curriculum delivery. Teaching, in its entirety, is a profession with its own skill sets that include expertise in knowledge and specialised pedagogical skills acquired and maintained through rigorous and continuing study (ILO/UNESCO: III.6). The 21st Century teachers need to be equipped to become effective agents of societal transformation for the development of the Country's human capital.

Given the dynamic nature of education, teacher education does not end with pre-service training. It requires continuous capacity development after the teacher graduates and enters the teaching service. This justifies the need for Continuous Teacher Professional Development (CTPD) in line with the emerging trends in education. Professional development and in-service training are issues of concern, especially in strengthening teachers' qualifications for Basic education as well as making teacher education more directed towards the 21st Century demand for practical learning. Additionally, the increased application and integration of digital content raises the need for equipping teachers with the technological capacity and skills for effective curriculum delivery. Against this backdrop, teacher education reforms in pre-service and in-service training are necessary.

4.2 Global and Regional Context on Teacher Education and Management

Attracting, developing and retaining effective teachers increases a nation's competitive advantage. Globally, the attainment of the SDG 4 remains a focal point for countries aimed at ensuring inclusive and equitable education that promotes lifelong learning opportunities for all. In top-performing education systems, teachers are usually recruited from among the top 5% to 30% performing students in high-stakes examinations in their areas of study. This means teachers are recruited from among the best, who, in turn, produce the best for the nation.

In-service teacher training is a global practice that promotes the continuous

improvement of teachers (Osamwonyi, 2016). There are many in-service teacher training programmes varying in terms of duration, funding, frequency and incentives. However, international best practices show that successful in-service programmes are the ones which are teacher-friendly, short, regularly offered, adequately funded, and professionally rewarding to the participants.

Implementation of reforms in education must hinge on teacher education given the demands of the 21st Century for innovative human capital development in a continually changing classroom and global context (UN — Transforming Education Summit, 2022). This necessitates revitalising the teaching profession to ensure quality, equity and relevance at all levels of education. The UN summit resolutions centred on transforming teaching by improving teachers working conditions in areas of compensation, provision of resources, capacity building and continuous professional development. The practice of attracting, developing and retention of the best for the teaching profession has been a hallmark of success for countries such as Finland and South Korea (Tatto et al., 2013).

Teacher management practices have a direct correlation to the quality of teaching and learning outcomes and starts from determining the staffing norms, recruitment, deployment, negotiations and organisation of pay, establishment of the code of conduct, evaluation of performance and follow-up. It also involves planning of future needs and the development of communication systems to support personal and professional development and career growth. The government bodies that have direct responsibility for teacher management differ with countries *(Appendix 4.1)*. For example, in Finland, Singapore and South Africa, teacher registration is done by Local Councils, and other teacher management functions by a different body, while in Kenya, all teacher management functions are the sole responsibility of the Teachers Service Commission (TSC).

Further, induction programmes for teachers before employment on permanent and pensionable terms have gained credence (Wang et al., 2009; Ingvarson et al., 2013). Rigorous induction programmes are based on the premise that they promote better ways of identifying effective teachers for the service. *(Appendix 4.2)*.

4.3   National Context on Teacher Education and Management

Kenya has undertaken a series of reforms in the education sector geared towards improving the pre-service teacher education and training. The Odhiambo Report (2012) recommended a review of the criteria for admission into the teaching profession. The report underlined the need to include personal interest, academic qualification and three years of verifiable work experience for teachers of technical subjects. The report also emphasised the need for a review of the minimum entry grade for applicants joining Primary teacher education. The report recommended a KCSE mean Grade of C (Plain) as the minimum entry grade for a three-year diploma course. Further, the report called for the alignment of the Teacher Education Curriculum to the Kenya Vision 2030.

4.3.1   Pre-service Teacher Education

Pre-service teacher education is conducted by public and private Teacher Training

Colleges (TTCs) and the Universities. The TTCs offer either certificate or diploma courses guided by the Curriculum designed by the KICD, while the Universities offer teacher education-related degree programmes. The pre-service teacher education programmes are, however, not anchored in a national training framework with standards as is the case in best practices. For example, there are many government organisations and SAGAs with overlapping roles in charge of setting standards and offering quality assurance services.

The Pre-service teacher education programmes are organised at two levels: Diploma and Degree levels. A robust pre-service TE requires Teachers and Educators who are equipped with the requisite pedagogical knowledge and skills. In Kenya, Teacher Educators in Teacher Training Colleges or Universities lack the requisite training because there is no institution responsible for setting these standards. In practice, a Bachelor of Education (B. Ed) holder has been assumed to be qualified as a teacher educator in TTC, yet they were trained to teach in Secondary schools. Further, in Universities and other tertiary institution, holders of Masters or Doctorate qualifications are equally assumed to be qualified to teach at the University level without training in pedagogies. Without a national framework to provide standards for teacher educators, TTCs and Universities will continue to lack capacity for effective teacher training.

Following the adoption of the Odhiambo Report 2012 that recommended that the minimum entry into TE be a Diploma and subsequent discontinuation of the P1 Certificate, enrolment in TTCs has been declining over four years, as shown in *Appendix 4.3.* Adopting diploma qualification as a minimum entry requirement is meant to ensure quality teachers. This move is likely to impact on the future demand for teachers if the performance of Kenya Certificate of Secondary Education trends and the current subject cluster English C and Mathematics C is maintained. Further, the reduced enrolment in TTCs poses financial challenges in running the colleges that have no students and threatens the quality-of-service delivery and training.

The teaching workforce in education, predominantly Secondary schools, TTCs, TVETs and Universities depends on the Teacher Education (TE) programmes at University level. The current structure of Bachelor of Education programmes in Universities in Kenya dates back to 1966 when the University of Nairobi College started training graduate Secondary school teachers with the BA/B.Sc. (Education Option) consecutive model, which lasted only four (4) years. TE has remained largely traditional and unresponsive to reforms in education regardless of the numerous commissions and reports that have supported and recommended alignment.

In Kenya, the training of teachers in Universities is primarily carried out through teacher education programmes offered by public Universities and Teacher Training Colleges (TTCs) across the Country. At the University level, the Bachelor of Education (B.Ed) programme combines both theoretical and practical training in teaching, subject content knowledge, and pedagogy. Graduates of the B.Ed programme are eligible to teach in Primary and Secondary schools. The University TE programme started in 1966 to train graduate Secondary school teachers who graduated with a BA/B.Sc. (Education Option) in the consecutive model, which lasted only four (4) years. The current B.Ed., which follows the concurrent model, has been in existence

for more than fifty (50) years (Kafu, 2011). Over the years, the B. Ed. programme has undergone revisions and has been expanded to include Early Childhood Education, Primary Education, Special Needs Education, and Technical Education (Kafu, 2011).

There are variations in the structure of the Bachelor of Education Programme. The concurrent model is one in which the disciplinary content knowledge is taught alongside the educational and pedagogical studies throughout a long pre-service preparation period. The programme uses an integrated approach that combines disciplinary content, educational theory, research and practice, all taught concurrently. The inclusion of a practicum during the course of training is meant to provide teacher trainees with a platform to put into practice the pedagogic skill in the classroom. The consecutive model, on the other hand, is where the pedagogical studies are taught after candidates have obtained either a Bachelor of Arts or Bachelor of Science academic degree in subjects taught in schools. This is followed by the Post Graduate Diploma in Education (PGDE), devoted to general studies in education and pedagogy and practical experiences. This model does not offer students room to integrate theory, research and practice (OECD 2005).

Both models have advantages and disadvantages whereby the concurrent model offers a more integrated learning experience and a longer period of socialisation into the profession but requires an early career decision from people who are also less mature and less knowledgeable. The consecutive model is anchored on a stronger foundation of previously acquired subject matter knowledge, more flexible entry into teacher education and more readily accommodates changes in students' interests, conditions and changes in the labour market.

Microteaching allows teachers to improve their teaching skills by practising a variety of teaching techniques. Microteaching aids in the promotion of real-time teaching experiences. Kenyan institutions use a variety of structures and approaches to conduct microteaching and practicum for teacher-trainees, which makes standardisation of practicum assessments difficult. Universities are expected to incorporate project work, microteaching, and practicum assessments into the Competency-Based Assessment approach to balance formative and summative assessment. To improve TE training, stakeholders propose a two-term teaching practice (practicum) period during which students will go through formative and summative assessments. To ensure the quality of the approach to microteaching and practicum, the assessor is the teacher mentor who facilitates microteaching and practicum in the schools. Stakeholders also emphasised that Universities should form alliances with schools, identify mentoring teachers, provide training, and allocate allowances for their work with trainee teachers.

4.3.2   In-service Programmes

The In-service programmes designed to promote continuous Teacher Professional Development are offered by various agencies and Institutions/organisations, including TSC, SAGAs in the MoE, Universities, NGOs, the private sector players, religious organisations and even individuals. On the other hand, teacher Professional Development (TPD) offered by TSC is a structured modular for continuous teacher professional capacity development outsourced from service providers, including public and private Universities and the Kenya Education Management Institute

(KEMI). The TPD program is offered by blended face-to-face and online learning approaches aimed at aligning the Kenyan teacher to global professional standards. Those who complete TPD earn 40% of the promotion credits and have to pay Ksh. 6000 each year. The teacher is issued a Teaching License, which is renewed every five years.

Following the adoption of the CBC, the MoE, in collaboration with TSC, rolled out an intensive In-service training program to enhance the teacher's preparedness for the effective implementation of the reforms. As a result, several induction programmes have been offered to the majority of the teachers in Primary and Secondary schools. However, various summative evaluations, periodic monitoring and evaluation reports point to the gaps in teacher capacity to effectively deliver CBC and CBA. Of major concern is the low digital literacy among teachers, embracing the shift from summative examinations to formative assessment and adopting new, more learner-centred approaches, with the teacher as a facilitator of learning. Table 4.1 shows the number of teachers trained on CBC and CBA between 2019 to 2021.

Table 4.1: Number of Teachers Trained in CBC and CBA from 2019 to 2021

Target Trainee	No. of Teachers Trained
Curriculum Support Officers Regular and SNE CSOs	1,411
CBC Champions teachers (Regular and SNE)	2874
Head Teachers (Regular and SNE)	23,324
Head Teachers from Private schools	5833
Teachers (Public schools) for Grades 1,2,3,4 and 5	164,340
Teachers (Private schools) for Grades 1,2,3,4 and 5	31,510
Total	**229,292**

Source: Teachers Service Commission, 2022

Over the same period, all teacher educators in the TTCs were trained in CBC and CBA to prepare them to train pre-service teachers, as shown in Table 4.2.

Table 4.2: Teacher Educators trained on CBC and CBA from 2019 to 2021

Target trainee	Male	Female	Total
Teacher Educators	666	535	1201

Source: Teachers Service Commission, 2022

Data obtained from TSC revealed that between 2021 and 2022, a total of 55,125 (91.7%) out of the expected 60,076 teachers for Junior Schools were trained to handle the Junior Secondary School (JSS) Grade 7 cohort in 2023, as shown in Table 4.3. A follow-up CBC and CBA training of the Junior Secondary School teachers was carried out in March and April 2023 by CEMASTEA. Even though teachers have been continuously

retooled to build their capacity to cope with the changing demands of the Curriculum effectively, training teachers in the new learning areas, such as Performing Arts and Technical subjects, was not done and remained a serious area of concern.

Table 4.3: Junior Secondary Teachers Trained on CBC from 2021 to 2022

No	Participants	Expected	Actual		Total
			Male	Female	
1.	Trainers of Trainers	856	559	297	856
2.	Teachers (Public)	56,178	28,205	21,063	49,268
3.	Teachers (Private)	2,500	3,022	1,375	4,397
4.	SNE Trainers of Trainers	113	63	50	113
5.	SNE Teachers Public	429	235	248	483
6.	SNE Teachers Private	-	4	4	8
	Total	**60,076**	**32,088**	**23,037**	**55,125**

Source: Teachers Service Commission, 2022

From the foregoing, it is clear that in-service training is not standardised, harmonised and coordinated. The numerous service providers (**Appendix 4.4**) that offer the in-service programmes, albeit without any standards or quality-assured training framework, have affected the quality and led to conflict between the various players, especially TSC and MoE. It is evident that when standardised and harmonised, well-coordinated Continuous Teacher Professional Development (CTPD) initiatives lead to the improvement of the quality of teaching and enhanced learning outcomes.

4.3.3   Staffing, Adequacy and Distribution of Teachers

Data obtained from TSC shows a shortage of 44,496 teachers in Primary schools **(Appendix 4.5)** and 58,581 teachers in Secondary schools **(Appendix 4.6)** by January 2023. However, six (6) counties with a surplus of 796 Primary school teachers have not been redistributed under the staff rationalisation program. The shortfall in the number of teachers has been occasioned by an increase in the number of learners in Basic Education, the 100% transition policy and free day schooling for Secondary schools. This has led to high Pupil to Teacher Ratios (PTR) and threatens to compromise the quality of education. In addition, the implementation of CBC has aggravated the situation with the introduction of new learning areas and subjects. The adequacy of teachers is determined by the PTR, which varies depending on the category of school.

At the Pre-Primary schools level, TSC registers teachers qualified to teach at the Pre-Primary education level. Their recruitment, deployment, remuneration, and welfare needs are devolved functions of the County Governments. Currently, there are 44,288 Pre-Primary education centres with 68,271 teachers and 2,732,735 enrolled learners, as detailed in **Appendix 4.7.** This implies a pupil-teacher ratio of 40:1. Although significant gains have been made under devolution in the development of ECDE, there are major variations across the counties in terms of remuneration and the quality of preschool services. The capacity of the preschool centres on the adequacy

of pedagogical content and knowledge and skills for implementation of CBC and CBA remains a challenge. There is also a lack of adequate coordination between the national and the county governments on quality control, performance and assessment.

In Primary Schools, TSC data (2023) on staffing shows that there are 223,296 teachers in 23,274 Primary schools, with a staff establishment of 267,792 teachers. This implies a shortage of 44,496 teachers. Table 4.4 details the projected staffing needs for Primary schools up to 2029. The reduction in the number of Primary school teachers after 2022 is due to the adoption of the 2-6-3-3-3 structure, which reduces the number of years spent in Primary schools from eight to six.

Table 4.4: The Projected Staffing Needs for Primary Schools

Baseline	2022	2023	2024	2025	2026	2027	2028	2029
All learning areas	267,389	233,965	200,542	200,542	200,542	200,542	200,542	200,542

Source: TSC Data, March 2023

In the JS, the TSC 2022 baseline survey shows that the immediate demand for JS teachers is 70,430. However, the number is expected to rise to 73,000 in 2023 and will stabilise at 120,923 by 2024, when the teachers recruited over time will constitute an optimum number for the level of education. This is illustrated in Table 4.5 on Teacher Projections for Junior Secondary Schools by Subject Areas.

Table 4.5: Teacher Projections for Junior Secondary Schools by Subject Areas

Subject	2022	2023	2024
English	8385	8691	14,396
Kiswahili	6708	6953	11,517
Kenya Sign Language	91	91	91
Mathematics	8385	8691	14,396
Integrated Science	6708	6953	11,517
Health Education	3354	3477	5,759
Pre-technical education	8385	8691	14,396
Social Studies	5031	5215	8,638
Religious Education	3354	3477	5,759
Business Studies	5031	5215	8,638
Agriculture	5031	5215	8,638
Life Skills Education	1677	1739	2,880
Sports and Physical Education	3354	3477	5,759
Optional Subject	5031	5215	8,638
Total	**70430**	**73000**	**120,923**

Source: TSC Data, March 2023

The data in Table 4.5 points to the need to train more teachers, particularly in the new or revised learning areas. This should inform reforms in the TTCs, Kenya School of TVET and Universities to re-align their programmes towards training adequate teachers to meet the demands of the education sector. Given that CBC is undergoing progressive implementation, there is a need for the MoE and sector players to prioritise the retooling of teachers in line with the new demands of CBC and the learning/subject areas.

In the Secondary School level (8-4-4) during the transition in 2023, the TSC staffing data summarised in Table 4.6 and detailed in **Appendix 4.8** show that there are 123,985 teachers currently in the service in 9,246 Secondary schools against a curriculum-based establishment (CBE) of 182,566. This implies a teacher shortage of 58,581 at the Secondary school level.

Table 4.6: Summary of Staffing in Secondary Schools (8-4-4)

No. of Schools	Principals	Deputy Principal	Teachers	Total	CBE	Shortage
9,246	7,805	7,611	108,569	123,985	182,566	58,581

Source: TSC Data, March 2023

The staffing projections for Secondary Schools (2-6-3-3) by learning areas show that the Government will require a total of 97,907 teachers by 2028, as shown per learning area in Table 4.7

Table 4.7: Staffing Projections for Senior Schools (2-6-3-3)

Learning Area	2026	2027	2028
Sports Science	1739	3513	5314
Visual Arts	1739	3513	5314
Performing Arts	1739	3513	5314
Languages	2017	4075	6164
Humanities	2017	4075	6164
Business Studies	2269	4585	6935
Pure Sciences	2435	4918	7439
Applied Sciences	4174	8432	12753
Engineering	5217	10540	15941
CTS	8695	17566	26569
Total	**32041**	**64730**	**97907**

Source: TSC Data, March 2023

In the SNE institutions, the staffing status shows 2,819 SNE teachers in Primary schools, 1,353 in Secondary schools and 300 SNE tutors in the teacher training colleges, as presented in Table 4.8.

Table 4.8: Teachers Handling Special Needs Learners and Trainees in TTCs

Level	MI	VI	HI	PH	Other Disabilities	Total
Primary	24	867	128	1,778	22	2,819
Secondary	32	381	77	849	14	1,353
TTCs	–	32	381	77	849	300
Total	56	1280	586	2,704	885	4,472

KEY: *MI - Mentally Impaired, VI - Visually Impaired, HI - Hearing Impaired, PH - Physically Handicapped*

Source: TSC Data, March 2023

The SNE institutions remain grossly understaffed, compounded by the fact that sometimes SNE teachers are posted to special schools and not to those of their specialisation. There are no support teachers/assistant teachers for SNE schools, and most SNE teachers who worked in EARCs were transferred to other institutions and positions, causing a gap in the number of SNE assessors.

The TTCs staffing in The Basic Education Statistical Booklet 2020 shows there were 1,362 tutors in Public P1 Teacher Training Colleges (TTCs) and 527 in the private P1 TTCs in 2016. The numbers dropped to 1,019 in public TTCs and to 442 in private TTCs by 2020. This is shown in **Appendix 4.3**. Notably, there are no private TTCs that train Teachers at the diploma level, a fact attributed to the high entry grades for a Diploma in Education. Currently, all TTCs are operating sub-optimally and have no staff shortages. The TTCs have trainee enrolment challenges with a lot of idle capacity, including teaching capacity.

4.3.4   Teacher Registration and Recruitment

Teacher recruitment is important for, among others, increasing the number of teachers on a demand basis and replacing those who exit the service. Teachers are recruited as permanent and pensionable; interns; or on contractual terms. The recruitment is done based on demand and availability of funds. The TSC has structured recruitment guidelines for different categories of teachers. The Primary school teacher recruitment process is decentralised, but posting is done by the County Director's office or by delegation to the Sub-Counties. Secondary school and teacher training college tutors are recruited and posted at the decentralised recruitment point by the Boards of Management as a delegated responsibility by TSC. These are shown in Table 4.9.

Table 4.9: Recruitment of Teachers in the Teaching Service

Institution Level	Recruiting Agency	Posting
Primary schools,	Recruitment by sub-county recruitment panels chaired by TSC Sub-County Directors.	Centralised at TSC
Post-Primary institutions	Recruitment is conducted by Boards of Management in the exercise of their agency role granted under Section 20 of the TSC Act.	Decentralised to institutional level

4.3.5   Teacher Promotions

The promotion of teachers is designed for career growth and progression the world over; it is also a means to motivate staff while recognising their ability to perform where greater skills are required though the experience is expected. The promotion of teachers in public institutions is guided by the career progression guidelines (2017) developed by the TSC for the teachers under its service. The county governments have a separate career pathway for teachers in the ECDE centres. Private schools also have their systems of recognition and promotion. However, there was a general feeling that the TSC promotions are difficult to get beyond the common cadre promotions; the promotions are based on available advertised administrative positions. This has led to a large number of teachers stagnating in their job groups, especially in job group N or TSC Scale C5. Many remain on the same grade for years, causing demoralisation and sometimes burnout.

4.3.6   Teacher Performance Appraisal and Development

The Teacher Performance Appraisal and Development (TPAD) has reduced teacher absence from school and improved teacher lesson attendance with a positive impact on learner performance. The TPAD obtained a continental award in 2022 for innovation by entrenching performance contracting for teachers in Kenya. This has been an attraction for benchmarking by many countries. Tracking of performance of teachers remains key in the implementation of CBC and in building a culture of effectiveness in the teaching profession.

However, TPAD implementation has elicited issues of concern, with some teachers viewing it as punitive and prone to manipulation with a reduced buy-in of the teachers. In addition, teachers file TPAD for compliance purposes; however, they are less reflective of actual performance levels. Best practices reveal that the purpose and implementation of teacher performance appraisal are often complex but improve learning outcomes if implemented in good faith.

4.3.7   Teacher Education Financing

Currently, Diploma Teacher Education is supported by the MoE. Data from the MoE for the financial year 2021/22 shows that the tuition fee and Activity vote head was Ksh. 1,200 and Ksh. 700 per student, respectively. Further, the cost of local travel, transport, repairs and maintenance was Ksh. 300,000 and 207,600 per college. Personal Emoluments (PE) and administrative cost is calculated as a proportion of salaries paid in the previous quarter at PE (75%) and Administrative (25%). Therefore, the unit cost is based on the money available and PE per college.

While funding models for TVET and University education have been developed and revised over the years, none has ever been developed for teacher education in the TTCs. Teacher Training Colleges offering pre-service training have not been adequately funded, and Government does not support teacher trainees through HELB loans as in the case of TVETs and University students. The underfunding of TTCs and lack of loan facilities for trainees affect research and innovation at the TTCs

and lowers the trainees' morale, who feel left out while their colleagues in TVET institutions access loans.

4.4 Views from Stakeholders on Teacher Education and Management

Stakeholders raised the concern that pre-service Diploma in Education programmes for Primary school teachers did not produce teachers with specialisation in the teaching subjects. They further pointed out that the upgrade program in Primary teacher education was weak for the purpose of producing effective teachers. The short duration of the course did not allow for effective coverage and mastery of content and pedagogy. It was also noted that those pursuing diplomas in Primary education had performed poorly in different subjects at the Secondary level hence negatively impacting the quality of graduates produced under the upgrade program.

The stakeholders raised concerns about the entry requirements into pre-service Diploma Teacher Education and Training. They were concerned that the C grade requirement cuts off many people who want to enrol on teacher training colleges. They also raised the need to drop the subject cluster requirements and the need for affirmative action to allow candidates from marginalised areas and groups to qualify for teacher training with a relatively lower grade. Some noted that:

> (i) *Teacher training colleges have seen a drastic reduction in the number of teacher trainees due to the pegging of grade C plain in English, Kiswahili* (RESP043).
>
> (ii) *There is need to introduce affirmative action on the training of teachers from marginalised regions, i.e., a grade lower for places such as Turkana County C (minus) for diploma trainees* (RESP064).
>
> (iii) *The current minimum entry/eligibility requirements for admission to Diploma In Primary Teacher Education (DPTE) of KCSE mean grade C plain and in addition, C plain in English, Kiswahili, Mathematics, at least one science/technical and one humanity subject and a minimum of C plain for Diploma in Early Childhood Education (DECTE) should be reviewed downwards to conform to the realities of the inequities characterising different socio-cultural and economic backgrounds in which learners study and write national examinations* (RESP045).

Stakeholders also noted that enrolment and utilisation of facilities at TTCs are affected by the higher grades qualification for admission as captured in Table 4.10. For example, they noted that the entry requirement to DECTE and DPTE is C (Plain). The DPTE requirement is C (plain) in the KCSE examination with C (Plain) in a cluster of subjects; English and Kiswahili, Mathematics, Humanities and Sciences. The entry grade for the Diploma in Secondary Teacher Education Science and Arts option is KCSE C+ (Plus), the same as the entry requirement for a Bachelor's degree. They proposed a review that distinctly separates requirements for the two levels of education.

Table 4.10: Current TTC Entry Requirements

Teacher Education Programme	Minimum Entry Requirements	Course Duration
Diploma in Early Childhood Teacher Education (DECTE)	C (plain) in KCSE or C- (minus) for learners with Disabilities and Special Needs.	3 years
Diploma in Primary Teacher Education (DPTE)	C (plain) in KCSE and C (plain) in the cluster subjects - English, Kiswahili, Mathematics, Humanities and Sciences or C- (minus) for learners with Disabilities and Special Needs.	3 years
Diploma in Secondary Teacher Education (DSTE)	C+ (plus) in the KCSE examination and a C+ (plus) in two teaching subjects offered at the Secondary school level or C- (minus) with C+ (Plus) in two teaching subjects for learners with Disabilities and Special Needs.	3 years
Diploma in Special Needs Education (DSNTE)	C (plain) in the KCSE examination OR C- (minus) for learners with Disabilities and Special Needs.	3 years
Diploma in Technical Teacher Education (DTTE)	C+ (plus) in the KCSE examination or equivalent at Senior School; they must also have C+ (plus) in a related STEM subject offered at the Secondary school level or C- (minus) for learners with Disabilities and Special Needs. A candidate with a recognised certificate in a technical subject area from a recognised college shall be considered for Diploma training in the same subject area. They will be required to take foundational courses in numeracy and literacy.	3 years
Bachelor of Education (Science)	C+ (plus) and C+ (plus) in 2 teaching subjects. C (plain) in English and C (plain) in Mathematics	4 Years
Bachelor of Education (Arts)	C+ (plus) and C+ (plus) in 2 teaching subjects. C (plain) in English and D+ (plus) in Mathematics	4 Years

During stakeholder engagements, there were 722 submissions made about pre-service teacher training. Nearly half of the submissions (48.48%) recommended lowering the entry grade required for admission to the TTCs, 35.18% were of the view that pre-service training alone was inadequate for lifelong teaching, 10.39% called for a review of subject cluster requirements, and 5.96% pointed out that candidates from marginalised areas are not able to join teacher training colleges due to high entry grades as shown in Figure 4.1.
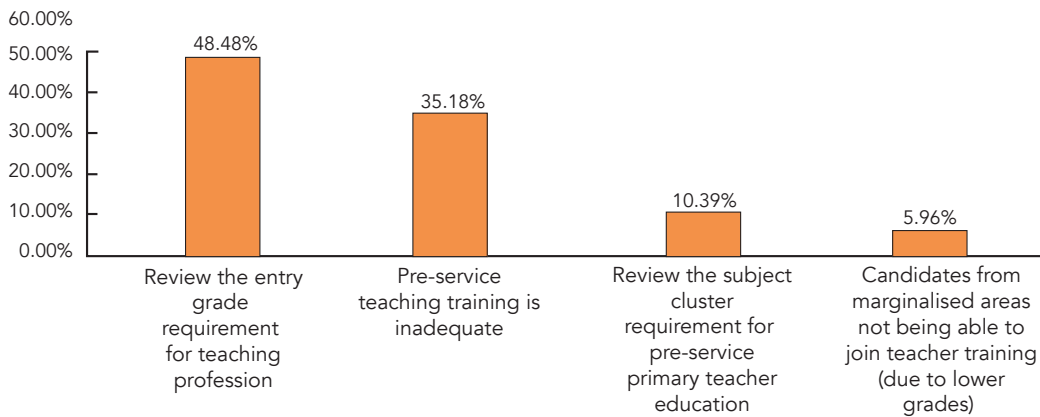
Fig. 4.1: Submissions on entry requirements

University Teacher Education stakeholders observed that Universities are not prepared to develop and align current B.Ed. Programmes to CBTE during the 8-4-4 to CBE transitioning period. The stakeholders further noted that the Commission for University Education had not developed the Standards and Guidelines for CBTE. In addition, stakeholders indicated that the duration of practicum in Universities is too short for trainers since students are assessed twice, and there is no room for mentorship for trainees in service.

In regard to in-service training, there were a total of 125 submissions received on the mandate of In-service teacher training from stakeholders. Over half of the submissions (58.4%) were of the view that in-service teacher training should be the responsibility of the MoE, while 29.60% stated that TSC should lead in-service teacher education, as shown in Figure 4.2.
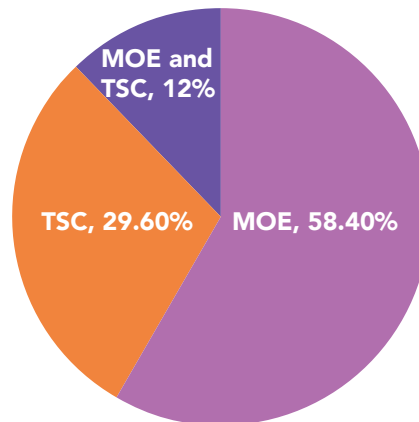
Fig. 4.2: Who should have the mandate for In-service Teacher Training

Some of the stakeholders said that:

(i) *The training and development for both education officers and curriculum implementers and teachers should be the sole responsibility of MoE* (RESP046).

(ii) *The TSC cannot and should not offer teacher training because it lacks mandate and capacity to do so* (RESP047).

> *(iii) In-service training of teachers should be a function of TSC, and training should be online portal based with online pre-prepared training and then short examinations at the end* (RESP048).

On teacher preparedness to implement CBC and CBA, there were 1,585 stakeholders' submissions. Out of this number, 34.6% stated that only a few teachers had been trained on CBC implementation; 33.8% reported that the training program was rushed, while 10% attributed lapses in the interpretation of the Curriculum designs as challenges. Further, the stakeholders pointed to inadequate capacity to conduct assessments and superficial training as weak points for the implementation of CBC. The findings are shown in Figure 4.3.
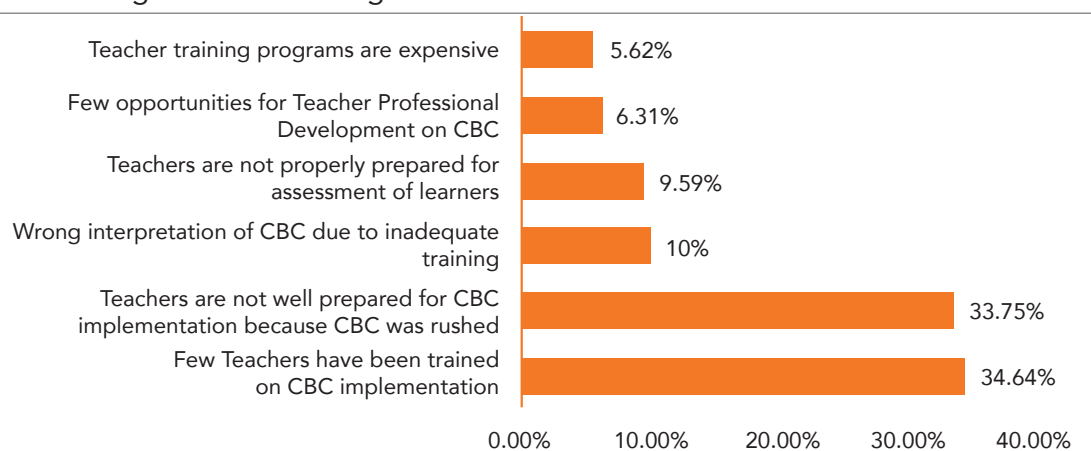
Fig. 4.3: Summary of stakeholder views on CBC teacher preparedness

Some of the stakeholders argued that:

> *(i) The training organised by TSC is superficial, hurried, and conducted by unqualified trainers. Facilitators gave conflicting approaches to interpreting curriculum designs, nor could they comprehensively respond to questions asked. Teachers do not have confidence that the training they got was enough to handle the CBC curriculum* (RESP050).
>
> *(ii) There should be an adequate schedule, and training workshops should be conducted early to allow teachers to interact with the content and seek different support systems before delivering the content to learners. Teachers' training workshops should be done thoroughly, competently, and concurrently in all regions* (RESP055).

The following verbatim excerpts on TTC funding were captured;

> *(i)   There is little or no research taking place in teacher training colleges due to lack of funds. The Government should consider funding research and innovation in teacher training colleges* (RESP098).
>
> *(ii) The Government should consider funding the students during their practicum. This will make it more successful and meaningful for both the student and the school* (RESP099).

(iii) *TTCs should be placed in the same state department as other tertiary institutions and be able to benefit from funding from the Government* (RESP101).

(iv) *TTCs have suffered years of neglect, such that physical facilities in most colleges are old and dilapidated. TTCs are disadvantaged when it comes to the issue of funding. Almost all colleges lack functional laboratories, workshops, music rooms and home science rooms, which are very critical in preparing teachers for CBC competencies. The Government should recognise the critical role TTCs have to play in preparing curriculum implementers and offer them all the necessary support they require to train empowered teachers* (RESP102)*.*

(v) *TVET and University education teacher trainees should be treated like students in other diploma colleges, especially in being given HELB loans and bursaries* (RESP103).

The welfare issues for the teaching profession in Kenya are found to be a shared responsibility between TSC and the MoE. The Ministry is responsible for the establishment of schools, the provision and maintenance of the infrastructure and equipment for use in curriculum delivery. The TSC is responsible for the general professional development of teachers as well as issues of workload and job satisfaction. Of concern, however, is that many feel that wellness and social support, school working environments and professional learning opportunities, as well as life fulfilment and health (mental and physical), are not paid attention to adequately. Some of the verbatim excerpts included the following:

(i) *The disparity in payment of house allowance within the metropolitan should be harmonised. There is a need for more funding to be directed towards the support of these activities* (RESP061)*.*

(ii) *Consider recruiting more teachers and bettering the welfare of the currently employed teachers* (RESP062)*.*

A total of 549 submissions commented on teacher welfare, with 51.7% of the submissions recommending a review of allowances for teachers. Other issues of concern included the need to review health insurance and the provision of psychosocial support, as shown in Figure 4.4.
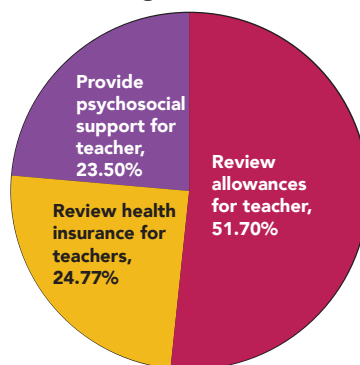
Fig. 4.4: Teacher welfare needs

On quality, equity and inclusion regarding teacher management, the stakeholders noted that there are historically disadvantaged regions of the Country where education infrastructure has remained underdeveloped. Such regions have a low attraction of teachers, becoming hard-to-staff zones. The incentives of hardship allowances have not addressed this issue. The stakeholders also decried the administration of Teacher Professional Development (TPD), citing cost as a major challenge without corresponding benefit to the same teacher.

A total of 3,808 submissions responded to the issues of teacher deployment, distribution, management, staff development and teacher shortage in Primary and Secondary schools. Most of the submissions complained about the teacher shortage in Primary and Secondary schools and teachers pay. On delocalisation, 10.1% of the submissions observed that the TSC policy had negatively impacted the families of teachers. Figure 4.5 shows the issues of concern on deployment, distribution and management of teachers.
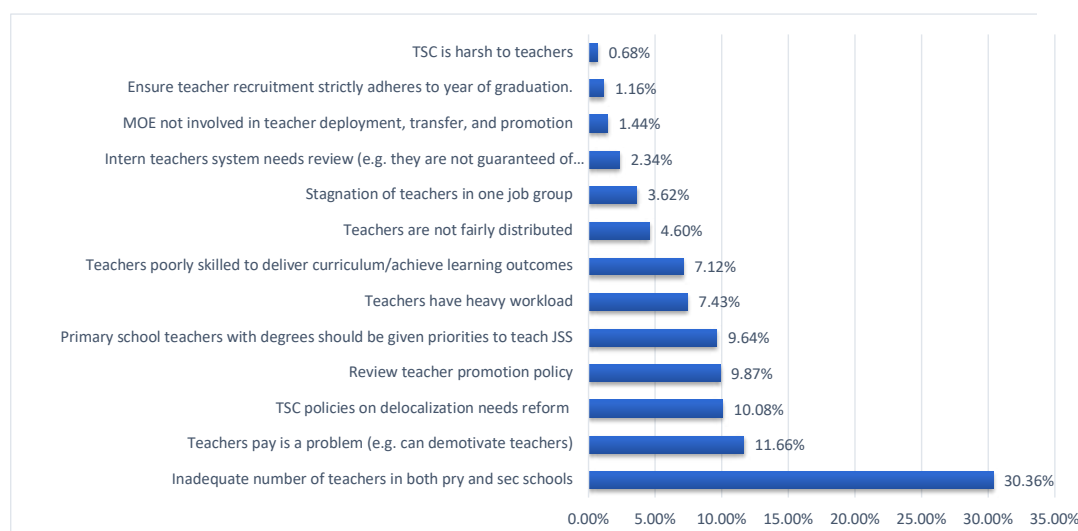
Fig. 4.5: Issues on deployment, distribution and management of teachers

On governance, the stakeholders raised concerns in regard to the governance structure of basic education. Many were of the view that there is a role conflict between the national and county governments and between the MoE and the TSC. The governance of Pre-Primary centres affected their performance. The stakeholders pointed to the disparities in teachers' terms of service, with each Country having its own scheme of service, yet the qualification of such teachers was the same. One of the excerpts from the submission is as follows:

> (i) *The County government should be given the role of implementing ECDE policies, while the national Government's role should be limited to policy-making, standardisation and funding* (RESP058).

> (ii) *TSC is messing up with the stability of schools and families by transferring teachers and head teachers unilaterally. This destabilises the schools;*

> *there should be better coordination between MoE and TSC, and TSC should operate under MoE, headteachers in sponsored schools should be appointed in consultation with the sponsors* (RESP058).

The promotion of teachers in Kenya is predominantly pegged on the availability of positions/vacancies and minimum academic qualifications in accordance with the career progression guidelines. Countries adopt different methods and styles of appointing institutional administrators, as illustrated in *Appendix 4.9*. South Africa, for example, uses a centralised promotion system, while Germany has a delocalised promotion. Some countries also require completion of prescribed additional courses in administration and management, and previous experience in service, among others, before promotion or even appointment to certain higher positions.

The stakeholders raised issues of unfair promotion, delayed promotion, unfair deployment and distribution of teachers that led to a shortage of teachers in certain regions and subject areas, which negatively impacted teachers' morale. The TSC policy of delocalisation was reported to be unpopular, with suggestions to scrap it. The following are verbatim excerpts from the submissions.

> *(i)   Harassment that Kenyan teachers endure under the TSC! The TSC has carried out massive transfers of teachers away from their home areas in a procedure called "delocalisation"* (RESP056).
>
> *(ii)   Amend the TSC Act to make it mandatory for TSC to ensure fair distribution of teachers across the Country and across different categories* (RESP057).
>
> *(iii) It is ironic for the TSC to think that national cohesion comes from displacing teachers, disrupting their families, and contemptuously showing no sympathy or empathy* (PWPER 4-009).

Other concerns by stakeholders included: lack of consultations between TSC and the MoE on the promotion and transfer of teachers, especially the heads of institutions; failure to recognise and offer compensation for teachers who acquire master and doctorate degrees; failure to bring on board technical subject teachers in TTCs; and failure of the Career Progression Guideline (CPG) to consider other factors such as experience and effectiveness in the promotion of teachers. Additional concerns included the promotion of SNE teachers, curriculum support officers, and secretariat staff and setting guidelines for teachers employed by the Board of Management.

The PWPER, therefore, noted that views raised by the stakeholders point to the need for a clear framework for teacher education and management; rethinking the model of TTCs; harmonising in-service training by the various players; bringing all teachers under CTPD; and instituting deliberate mechanisms to attract, develop and retain effective teachers.

4.5   Conclusion and Recommendations

4.5.1   Conclusion

The findings show that Kenya has made great strides in teacher education and management, becoming a regional benchmark. There exist structures and guidelines for both pre-service and in-service teacher training, with the country-producing qualified teachers normally absorbed into the public and private learning institutions, while others find employment in other countries and other sectors of the economy. However, there are gaps that need to be addressed in order to attract, develop and retain effective teachers for the transformation of society and achievement of Kenya Vision 2030 and SDG 4.

Teacher education and management roles are carried out mainly by the MoE and TSC, with no clear framework, conflict arises between the two institutions to the detriment of quality service delivery. It was observed that there is a lack of a coherent approach to teacher education and deployment, with many well-intended sector players for the same sector taking different and sometimes conflicting approaches. The findings showed that institutional administrators do not have clear in-service education programmes. Further, the implementation of CBC faced challenges mainly emanating from inadequate teacher capacity and preparedness.

The PWPER observed that Kenya was not attracting the best of its student population to the teaching profession. The uneven distribution of teachers across the Country remains an issue of concern, with some regions experiencing acute shortages while other regions were overstaffed. Further, the TTCs facilities remain under-utilised, with some having more tutors than students. The findings show the underutilisation of the TTCs as well as many internal challenges that include: inadequate facilities; posting trainers who are not specifically trained for these institutions; lack of access to loans through HELB; and lack of guidelines for sharing under-utilised facilities, including linkages with industry players.

Pre-Service Teacher Education (PSTE) lacks a framework; thus, TE is not standardised. The TTCs, Colleges offering Diploma in Education and Universities need TE standards to ensure that the quality of teachers meets the 21st Century demands and becomes globally competitive.

Universities globally play a critical role in shaping and informing Pre-service Teacher Education (TE). Globally, best practice reveals that responsive TE reforms precede Basic curriculum reform implementation to achieve seamless rollout. Unfortunately, TE reforms in Kenyan Universities have often been reactive to Basic Education curriculum reforms leading to poor preparedness. Hence it is necessary for the Ministry of Education, the State Department of Basic Education and the State Department of University Education to work closely with Universities to rethink strategies that will support the continuous alignment of TE programmes to the emerging needs of basic education as critical players for the effective implementation of reforms. The Commission for University Education should provide specific guidelines for TE programmes that clearly embed the principles of Competence-Based Teacher Education (CBTE).

There is a need for a long teaching practice period of two school terms. In addition, University schools of education should embrace mentorship as a part of the practicum process, and the mentoring teacher should be made the assessor of the trainee teacher during teaching practice. This will require that the Universities, besides getting into partnerships with schools, will identify the mentoring teachers and train them. There will be no cost implication because the funds will be drawn from the Teaching Practice allowances previously paid to the lecturer. Admission requirements for the B.Ed degree shall continue to be determined by the Universities' Senates.

Regarding the welfare of teachers in the service, PWPER noted that there were serious concerns about the non-consultative transfers and appointment of institutional administrators between the TSC and MoE; the delocalisation policy; the disjointed in-service teacher education programmes; and the lack of a collaboration framework between partners offering teacher education and management services.

4.5.2   Recommendations on Teacher Education and Management

1. The MoE to develop guidelines on how all teachers who graduated before 2023 undergo a mandatory one-year retooling and upgrading programme for compliance with the curriculum change.

2. The minimum entry grades for Pre-service TE programmes be as follows:

    (i)   DECTE and DPTE – C (Plain) in KCSE or its equivalent in SS:

    (ii)   DSTE – C (plain) in KCSE or its equivalent in SS with C (Plus) in teaching subjects,

    (iii) DSNTE – C (Plain) in KCSE or its equivalent in SS; and

    (iv)   DTTE – C (Plain) in KCSE or its equivalent in SS with C+ in related STEM teaching subjects.

    In each case, all applicants with disability will be admitted with a mean grade of C- (Minus) in all diploma programmes and all other conditions will apply. Further, A candidate with a recognised certificate in a technical subject area from a recognised college shall be considered for Diploma training in the same subject area.

3. The Schools/Faculties of Education in Universities should develop comprehensive Faculty Staff retooling programmes in preparation for CBTE at the University level. Admission requirements for the B.Ed degree shall continue to be determined by the Universities' Senates.

4. Establish Kenya Teacher Training College (KeTTC) to administer all Pre-service teacher training colleges (TTCs) as campuses. Further, develop a framework to ensure optimal utilisation and sharing of resources.

5. MoE to establish a Kenya School of Teacher and Education Management (KeSTEM) as a corporate body to coordinate all In-service programmes for institutional leaders and education officers. Additionally, KeSTEM will offer CPD for teachers utilising facilities of Kenya Teacher Training Colleges (KeTTC).

6. TSC to offer all education graduates an opportunity to undertake a mandatory one-year internship programme upon completion of Pre-service training. The internship should be a structured and coordinated programme, which includes Teacher Induction, Mentorship and Coaching (TIMEC).

7. TSC in consultation with MoE to harmonise teacher management guidelines on deployment, promotion of teachers and institutional administrators and teacher welfare.

8. MoE, TSC and the COG to review the existing policies and guidelines on Pre-Primary teacher deployment and institutional administration. This should ensure collaborative management of teacher registration and recruitment, deployment and transfer, promotion and standardised remuneration, as well as performance monitoring and welfare of all Pre-Primary teachers. SRC to be consulted in the implementation of a collaborative framework on harmonised remuneration of Pre-Primary School teachers.

9. Deployment and remuneration of teachers in Pre-Primary, SNE and hard-to-staff areas should be prioritised under the staff establishment and rationalisation programmes.

10. Ensure the current students pursuing Bachelor of Education Programmes graduating from 2023 onwards are adequately trained in CBE. All Universities offering TE should ensure their programmes are aligned with CBTE and CBTA. The minimum duration for a Bachelor of Education degree in Teacher Education is four years (3 years for professional courses and 1 year for practicum).

CHAPTER FIVE

FINANCING BASIC EDUCATION

5.1 Introduction

A framework through which school funds are allocated, distributed, governed and monitored is essential in ensuring that resources are utilised where they realise the highest outcomes. Availing adequate funds, allocating them, and matching the needs of the learners are important in transforming education. Given that education consume a significant amount of public expenditure, having an effective framework to allocate resources to schools and ensuring their efficient use is an important policy concern for the Government.

The high cost and rising demand for education have undoubtedly prevented many deserving students from accessing Secondary education. As a result, individuals, Government and private organisations have established scholarship and bursary schemes to provide assistance to those in need. Some of the sources of bursaries and scholarships that cater to the needs of economically disadvantaged learners in Kenya include the Ministry of Education, the National Government-Constituency Development Fund (NG-CDF), County governments, banks and foundations, Non-Governmental Organisations (NGOs), political leaders, Faith-Based Organisations and philanthropic individuals. These scholarship and bursary sources have huge funds set aside for needy students every year.

The PWPER was required to review and recommend appropriate financing framework, including capitation and minimum essential package grants for all levels of basic education, and to review and propose an appropriate framework for the management and coordination of bursaries and scholarships for Secondary School students. Further, it was expected to review and recommend a framework for physical and e-infrastructure development and coordination of public-private partnerships for improved access and quality provision. This Chapter presents the views of the PWPER on the three TORs and makes appropriate recommendations.

5.2 Global and Regional Context

Investing in education is widely recognised as an important development policy decision, with education investment directly linked to human capital formation. Thus, countries dedicate significant amounts of public expenditure to education in general and basic education in particular. Globally, countries spend an average of 4.3% of GDP on education, with North America spending 5.6%, Europe and Central

Asia 5.1%, while most countries in the middle and lower income levels spend an average of 4.0%. There is a positive correlation between education expenditures and the level of economic development. Although Kenya invests above the global average, the country experiences high inefficiency levels leading to lower outcomes. In sub-Saharan Africa (SSA), more than 50% of public resources in education are allocated to Basic Education, although the financing gap still exists. Countries with high investment in Basic Education tend to have higher education outcomes and human capital development.

Kenya is investing approximately 5.1% of its GDP in education, which is higher than the global average of 4.3% (Figure 5.1). However, the sector needs to critically analyse the efficiencies of the operations and financing of education and training.
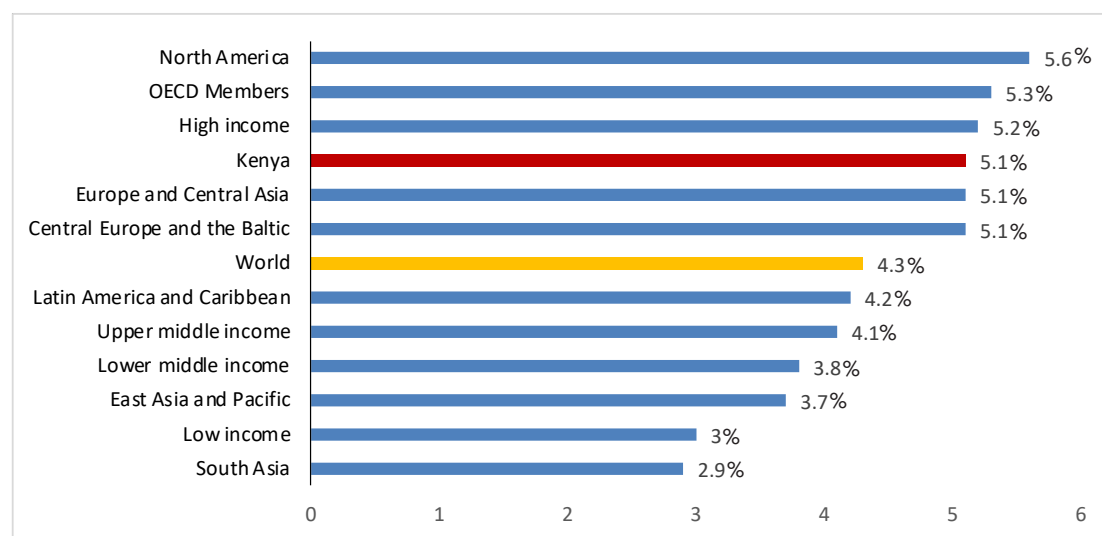
Fig. 5.1: GoK expenditure in education as a percentage of GDP compared to the world and SSA average (Source: World Bank, 2020)

A review of funding frameworks globally showed that national governments are the main source of school funding, with sub-central governments' revenues and private spending increasingly becoming important sources. International funding complements national sources of school funding in various countries (OECD, 2017). In countries with more centralised school systems, various central-level agencies may contribute to managing and allocating school funds. The funding framework entails processes on who makes, implements and monitors the decisions about how funding is spent. Monitoring and evaluation is an integral part of the framework to ensure the effectiveness of resource use by providing information on whether resources have been allocated productively.

Learners with special needs require more resources for specialised personnel, infrastructure and Learning and Teaching Materials (LTMs) than their peers without disabilities. There are four Primary Models used to provide capitation to special education funding to schools. The Census-based Model provides funding based on overall student attendance or enrolment. It assumes that per-student special

education costs do not significantly vary across the state. The Weighted Model allocates funds based on counts of students with disabilities. The variations of this model include:

- A single, Flat Weight where students with disabilities generate the same amount of funding; and

- Tiered Weights, where students with disabilities generate different levels of funding based on disability category, placement type, or service levels.

In the Resource-based Model, funds are allocated based on special education resources, including teachers, instructional aides, and specialists. The resource level is typically determined by staff-to-student ratios that can vary by disability category, placement type, or service level. Lastly, the Reimbursement Model is based on reimbursements to schools for all or a percentage of actual, eligible expenditures. It includes high-cost formulas that only provide refunds after a certain cost threshold (LAO Report: Overview of Special Education Funding Models, 2021).

The Global Alliance for Literacy (GAL) is widely used to finance ACE, using a unit cost of between USD150 and USD200 per learner per year (Popović, 2021). The unit cost includes a number of parameters, namely:

(a) a single concept of literacy;

(b) the number of hours of instruction required by a learner to attain basic literacy;

(c) the number of courses one instructor can deliver per annum;

(d) the learner group size; (e) gender considerations; and

(e) the ingredients of life skills within the concept of basic literacy.

The average unit cost for ACE in Latin America is $61; in Africa, it is $47, while in Asia, it is $30. The UK, Canada and Belgium have high ACE unit costs of $83, $68 and $32, respectively.

Countries worldwide have established a financing framework to provide bursary grants to support needy and vulnerable groups. The essence of bursaries is to increase the participation in the education of those excluded from society by virtue of their socio-economic status. However, funding and management of bursaries differ significantly across countries.

5.3   National Context

The Government has prioritised investment in education towards ensuring universal, inclusive, quality and relevant education and training that is accessible and affordable to all citizens. The National Government is responsible for funding all levels of education except Pre-Primary, which the County government largely finances. During FY 2019/20 to FY 2022/23, the education expenditure as a share of the total national Government expenditure averaged 16.7%, with spending in Basic Education alone averaging 12.3% (Figure 5.2). The average expenditure in Tertiary Education as a share of total national expenditure was 3.7%.

Within the education sector, the bulk of expenditure was in Basic Education, accounting for an average of 74% of the allocated funds, while Tertiary Education averaged 21.9%. The balance was spent on administration and related activities. During the four years, expenditure in both Pre-Primary and Primary and Secondary increased annually, while that in Tertiary decreased in 2020/21 before increasing in the subsequent years. Overall, their expenditure in tertiary recorded a modest increase.

(a)

(b)
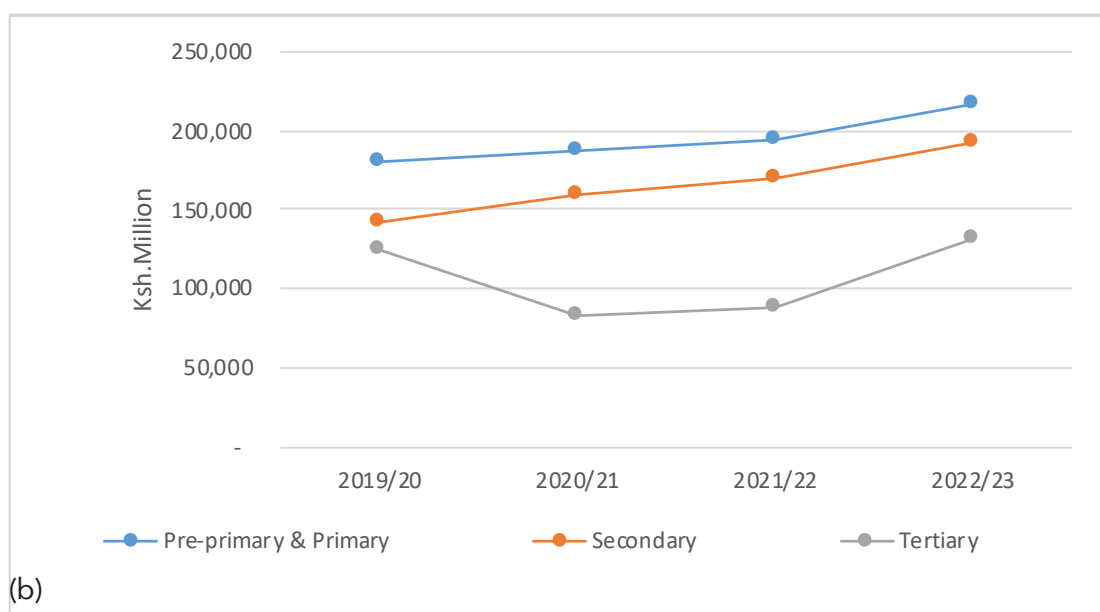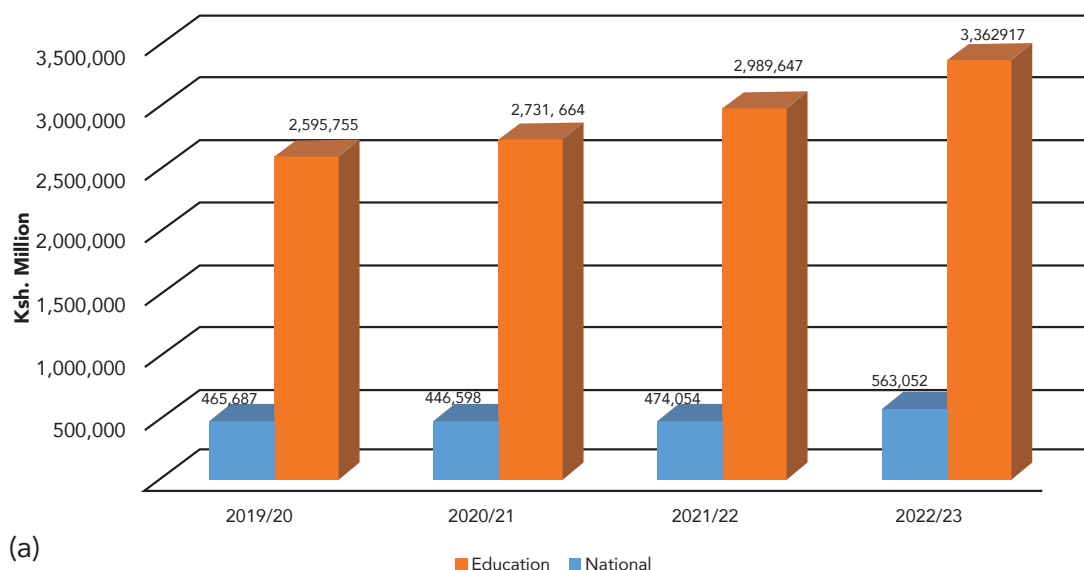
Fig. 5.2: (a) Trends in expenditure in education by the National Government (b) Expenditure per Sub-Sector (Source: Economic Survey, 2023)

Further analysis shows that the Teachers' Service Commission (TSC) consumes, on average, 75.5% of Basic Education expenditure. The TSC expenditure covers teachers' emoluments for public Primary, Secondary, Special Needs, and middle-level Training colleges. The remaining expenditure cover capitation grants for Primary and Secondary Schools, Special Needs Education, quality assurance and other administrative costs, as shown in Table 5.1.

Table 5.1: Basic Education Ppending, 2018/19-2021/22 (Ksh. Million)

Programme	2018/19	2019/20	2020/21	2021/22
School Readiness Program (ECDE)	11	3	2	2
Free Primary Education	17,813	11,090	14,998	15,598
Mobile School Program — ICT Capacity Development	-	9	50	52
School Health, Nutrition and Meals	765	1,455	2,140	2,226
Free Day Secondary Education	65,289	64,183	66,308	68,960
Alternative provision of Basic Education (Adult Literacy)	60	62	85	88
Special Needs Education (Primary and Secondary Education Levels)	1,072	1,049	933	970
General Administration, Planning and Support Services	11,132	10,533	10,788	11,220
Quality Assurance and Standards	4,176	4,263	4,703	4,811
Primary Teachers Training and In-Servicing	645	478	414	431
Secondary Teachers In-Service	218	203	173	180
Secondary Teacher Education Services	635	500	311	323
Secondary Bursary Management Services	82	45	10	11
Post Training Information Services	56	114	122	127
Teacher Resource Management	233,837	249,322	266,857	272,285
Teacher, Governance and Standards	445	391	895	931
Total	**336,236**	**343,700**	**366,339**	**378,204**

Source: Ministry of Education, 2021

The Implementation of CBC reforms will require effective resource mobilisation, effective utilisation of resources and adoption of sustainable financing mechanisms. Table 5.2 provides a detailed analysis of the costs of reforms to be undertaken at all levels of education (Pre-Primary, Primary, Junior Secondary, Senior Secondary, Special Needs Education, Teacher Education, Technical and University education) in the context of CBC. The aggregate resource requirements for implementing CBC for FY2023/24 is estimated at Ksh. 676 Billion with a financing gap of Ksh. 123 Billion.

Table 5.2: Financial Resource Requirement for Implementing CBC (Ksh. Millions)

Programmes	FY2023/24	FY2024/25	FY2025/26	FY2026/27
Central administration, including standards and quality assurance	14,561	14,968	15,387	15,818
ECDE	20,998	21,460	21,933	22,415
Primary Education	146,347	150,923	155,880	161,240
Junior Secondary School (JSS)	53,227	53,706	54,551	55,464
Senior Secondary School (SSS)	194,038	211,558	224,332	233,262
Teacher Education Training	214	220	226	232
Technical/Vocational Education	67,281	70,645	74,178	77,886
Apprenticeship	108	113	119	125
Adult Education, Literacy and Non-Formal Education	4,453	5,643	6,834	7,973
University Education	154,028	167,994	182,962	198,989
Recurrent Resource Requirements	**650,281**	**691,066**	**729,046**	**764,939**
Infrastructure Development Requirements	**26,500**	**26,635**	**26,893**	**20,575**
Total Resource Requirements (A)	**676,782**	**717,701**	**755,939**	**785,515**
MTEF 2023/24 Budget (B)	**553,301**	**581,637**	**607,580**	**631,883**
Financing Gap (A-B)	**124,481**	**137,064**	**149,359**	**154,632**

Source: MoE Projections

Considering that additional resources will be needed to phase out the 8-4-4 classes, the financing gap is likely to widen, posing a major challenge for the Government in implementing the CBC reforms.

(a) Capitation Grant

The main sources of school funds are government capitation grants, fees, donations, levies, bursaries, Non Governmental-Constituency Development Fund (NG-CDF) internally generated revenue and infrastructure funding. Capitation is the disbursement from the ministry based on enrolment. Funding of Pre-Primary is done at the county level. The cost drivers are teaching and learning materials, adapted learning materials, assistive devices and technologies, repairs and maintenance, local travel and international travel, administrative costs, electricity, water and conservancy (EWC), medical expenses, activity costs, personnel emolument, and insurance. The assumption is that the resources the Government provides through capitation are adequate to cover teaching and learning resources and activities. However, parents incur costs for boarding, meals, supplementary learning materials, and infrastructural development, among other requirements.

The Government introduced Free Primary Education in 2003 with a Capitation of Ksh.1,020 per child per year. The Capitation currently stands at Ksh.1,420, notwithstanding the high cost of living and the implementation of CBC. The Ksh.

1,420 is split into two parts of tuition costs (Ksh. 731) and operation costs (Ksh. 689) (Table 5.3).

Table 5.3: Allocation to Tuition and Operations for Primary School

Cost Area	Amount in Ksh	Percentage Distribution
Acc1 Simba Ksh. 731 (51.8%)		
Textbooks and Supplementary Readers	216.13	15.2
Textbooks Maintenance	20.09	1.4
Exercise Books	305.64	21.5
Teachers Guide and References Materials	107.99	7.6
Stationery	69.87	4.9
Assessment and Examinations	11.27	0.8
Acc 2 GPA Ksh. 689 (48.2%)		
Support Staff Wages (SSW)	188.91	13.3
Repairs Maintenance and Improvement (RMI) of Physical Facilities	105.53	7.4
Activity	77.96	5.5
Local Transport and Travelling (LT&T)	44.37	3.1
Electricity Water and Conservancy (EWC)	63.21	4.5
Telephone/Box Rental/Postage	10.05	0.7
Environmental and Sanitation	52.44	3.7
Capacity Building and Meetings (BOM)	94.09	6.6
Contingencies (Including Sanitary Towels)	16.13	1.1
Science and Applied Technology	21.49	1.5
ICT Infrastructure Materials	14.81	1.0
Grand Total Ksh	**1,420**	**100.0**

Source: Ministry of Education (2014)

At the Pre-Primary level, out-of-pocket expenditures by the parents and contributions from the county governments finance teachers' salaries, school management and infrastructural development. The country lacks a capitation framework for Pre-Primary education, which hinders access to early childhood development education and exacerbates already existing inequities in access to foundational education and learning. The proposed capitation for Pre-Primary education includes itemised costs of textbooks and teacher guidebooks, curriculum support materials, Electricity, Water and Conservation (EWC), internet cost, ICT materials and School-based capacity development for Teachers and Management.

Other than the normal capitation across the board, special needs learners are given a top-up capitation of Ksh. 2,300 per learner per year for about 130,000 learners in special needs education institutions. The prevailing capitation to Primary schools is based on the 8:4:4 education characterised by a few learning areas and activities.

The Government introduced Free Day Secondary schooling (FDSE) in 2008, with a capitation of Ksh.10,625 per student per year to support tuition. However, the FDSE grant was adjusted upwards to Ksh. 22,244 per learner in 2017 (Table 5.4). Parents and guardians are not supposed to pay any levies. However, parents with learners in day and boarding schools incur the cost of meals, transport and accommodation.

Table 5.4: Fee structure for FDSE, Boarding and Special Needs Secondary Schools (Ksh)

Vote Heads/Cost Centres	Boarding Schools		Day school		Special Needs	
	GOK	Parent	GOK	Parent	GOK	Parent
Learning and Teaching Materials (LTMs) and exams	4,792	-	4,792		4,792	-
Boarding, Equipment and Stores (BES) /Lunch	-	34,010		-	23,220	10,790
Repairs, maintenance and improvement	1,886	2,400	1,886	-	1,886	
Local travel and transport	1,833	650	1,833	-	1,833	
Administration costs	1,572	1,850	1,572	-	1,572	
Electricity, Water and Conservancy (EWC)	3,151	4,900	3,151	-	3,151	
Activity fees	1,256	150	1,256	-	1,256	
Personnel Emolument (PE)	5,755	3,100	5,755	-	5,755	
Medical and Insurance	1,999	-	1,999	-	1,999	
Top up	-	-		-	12,510	
Total school fees	**22,244**	**47,060**	**22,244**	**-**	**57,974**	**10,790**

Source: Ministry of Education 2020

Capitation and fees payable for boarding schools are based on the MoE fee guidelines as per school category, i.e., National, Extra-Country and County, with Category A

boarding schools costing Ksh. 75,798 annually out of which the Government provide Ksh. 22,244, and parents contribute Ksh. 53,554. Category B boarding schools charge an annual fee of Ksh. 62,779, with the Government paying Ksh. 22,244 (schools receive Ksh. 18,869), and parents provide Ksh. 40,535. The other Vote Heads include local travel and transport, administration, electricity, and personnel emolument.

Learners of Primary school Grade 6 join Junior School at Grade 7, which is domiciled in Primary Schools. At this level, the learners are exposed to a broad-based curriculum to enable them to explore their abilities, personalities and potential towards preparing them to select subjects according to career paths of interest at the Senior school. Learning areas in Junior School education comprise 12 Core Subjects and seven (7) Optional Subjects. Therefore, the determination of capitation for JS takes cognisance of the changes in the career pathways.

Senior School will target learners in the 15-17 age cohort who will be in Grades 10 to 12. Junior School learners will have identified learning pathways from Arts and Sports Science, Social Science and Science Technology, Engineering and Mathematics (STEM). The anticipated pathways will require physical infrastructure and human resource investment, especially in the new pathways. For instance, establishing Arts and Sports Science learning facilities requires considerable budgetary allocation. Therefore, the capitation for Senior School (SS) is determined by considering cost drivers for each pathway.

SNE is funded using a weighted single, flat model where students with disabilities generate the same amount of funding. This approach has been criticised for not considering the diversity of needs arising from different disabilities, hence a uniform allocation that is unfair and hinders access, quality and retention. The Sector Policy for Learners and Trainees with Disabilities (MoE, 2018) proposed a Differentiated Unit Cost (DUC) approach for funding Special Needs Education, although this is yet to be operationalised.

The SNE grant is Ksh. 1,420 per learner in Primary schools and Ksh. 22,244 per learner in Secondary schools. Currently, the Government provides a top-up of Ksh. 2,300 for learners with special needs and disability in Primary school and Ksh. 35,000 for those in Secondary schools. The additional capitation is meant to facilitate schools to procure specialised learning resources, assistive devices and technologies for learners with special needs and disabilities.

Funds allocated to ACE are used for activities such as the development of learning materials, training of personnel, payment of salaries, publicity, advocacy and purchase of materials for project artwork. In 2019, ACE was allocated Ksh. 92 Million, which was 0.09 % of total education spending. ACE does have any financing frameworks and does not receive government capitation.

The Competency-Based Curriculum implementation calls for a review of ACE delivery. This will include the introduction of matching learning areas. In addition, adult learners at this level would be exposed to a broad-based lifelong learning curriculum to improve skills development.

(b) Sanitary Towels

The Government-funded sanitary towels programme for public schools was first launched in 2011 under the MoE to minimise absenteeism and reduce the risk of drop-out among girls. In this arrangement, all girls from disadvantaged backgrounds in public Primary, Secondary and Special Schools are provided with a monthly packet of disposable sanitary towels. Their teachers are also trained to offer the necessary psycho-social support to the girls. The programme was briefly transferred to the Ministry of Public Service, Youth and Gender Affairs (PSYGA) under the State Department for Youth and Gender Affairs during the 2017/2018 financial year but has since reverted to the MoE. The initiative is reinforced by the Basic Education (Amendment) Act No. 17 of 2017, which commits the Government to "provide free sufficient and quality sanitary towels to every girl child registered and enrolled in a public Basic Education institution who has reached puberty". Over time, development partners and private organisations have also complemented Government efforts.

(c) Management and Accountability of Funding at the School Level

Education consumes a significant amount of the government budget besides the cost-sharing funds from parents. With such a heavy investment, the Government, parents and the communities expect proper accountability and value for money from those involved in the management of school funds. The accountability systems in schools are exercised through the enforcement of relevant laws, particularly the Public Finance Management Act 2012, which requires public entities to adopt risk management frameworks and international financial reporting standards in the preparation of financial statements. Multiple actors do management and are accountable for the school funds. For instance, the School Board of Management provides oversight on all school resources, including finances, while the Parents Association's main responsibility is to mobilise resources and determine and sanction levies charged by schools. The headteacher is the Accounting officer and is responsible for budget execution and the preparation of financial statements.

The Basic Education Act assigns the County Director of Education, among others, the function of facilitating auditing of all basic education institutions in the County. Thus, The Office of the Auditor General is a constitutional office established under Section 232 of the Kenya Constitution with the mandate to audit the financial record of a public institution to establish the validity and accuracy of the records and evaluate whether there are any inaccuracies in the records due to errors, fraud and embezzlement and report the same to the stakeholders through Parliament. The Office of the Auditor General, thus, determine the accuracy of the accounting records and confirms that they are prepared in line with the prescribed accounting principles and that the financial statement presents a true and fair view of the financial position and performance of schools.

The Directorate of Schools Audit is a special functional unit in the MoE charged with the responsibility of auditing, monitoring and evaluation of financial management practices in Primary, Secondary, teacher training colleges, TTC and other tertiary institutions and schools for physically handicapped learners. This is in line with the Basic Education Act that provides for school-based auditing. Therefore, the school's audit service is

an independent objective assurance and consulting activity designed to add value and improve the operations of public educational institutions. School principals and BOM (management team) need to be conversant with financial accounting procedures to satisfy the stakeholders' expectations. They may use the services of accountants, bursars and accounts clerks. However, the School principals are the accounting officers in charge, and society demands financial information from them.

(d)   Financing School Meals Across Basic Education Levels

Access to formal education is dependent on several household factors, including the availability of school meals/school feeding programmes. Empirical evidence shows that school feeding programs have a positive effect on school attendance, and the effects are larger in contexts of high food insecurity and low school participation (WACIE, 2020; Wang & Fawzie, 2020). School feeding programmes are therefore necessary for sustainable human capital accumulation while averting deprivations and inequalities, including concerns of social equity and exclusion. As a result, policy frameworks have been put in place, such as the National school meals and nutrition strategy (2017–2022), which aims to ensure that all children in Pre-Primary and Primary schools receive at least one nutritious meal per school day (Republic of Kenya, 2017-2022).

In this model, we estimate the cost of providing one meal to learners per day per year using the current market food prices (2023). This estimation does not consider an additional need at lower levels of education, that is, PP1 and PP2, who require milk/porridge. Notwithstanding, the provision of one meal can be estimated using the model below.   The total cost of providing lunch school meals is estimated at Ksh. 5 384 (Table 5.5) per learner per year, translating to Ksh. 20 per learner per day in a 266-school calendar. The cost of dinner for boarding schools was estimated at Ksh. 5,594. With the rise in the cost of living and seasonality in food production, the cost of provision of school meals is highly volatile, thus, likely to change from time to time. The unit cost for providing morning porridge and fruit for Pre-Primary learners was estimated at Ksh. 10 per day for 266 Academic Days translating to Ksh. 2,660 per year.

Table 5.5: Estimated Cost for One Meal Per Child Per School Day Per Year

Ingredient	Quantity (Kg)	Unit cost (Ksh)	Total (Ksh)	Unit cost per learner per day (Ksh)	Cost per Year Lunch (Ksh)	Cost per Year Dinner (Ksh)
Rice	90	108	9,720	7	1,798	1,798
Maize	90	67	6,000	4	1,110	1,110
Green grams	30	100	3,000	2	555	555
Beans	30	150	4,500	3	832	832
Energy/firewood per day	-	-	-	-	500	500
Tomatoes	20	55	1,100	1	203	203
Onions	7	100	700	0	129	129

Ingredient	Quantity (Kg)	Unit cost (Ksh)	Total (Ksh)	Unit cost per learner per day (Ksh)	Cost per Year Lunch (Ksh)	Cost per Year Dinner (Ksh)
Fat	7	180	1,260	1	233	233
Salt	9	25	225	0	42	42
Cabbage/Kales	170	15	2,550	2	472	472
Spices	0	200	50	0	9	9
Fruit						210
Cost per learner				**20**	**5,384**	**5,594**

(e) Minimum Essential Package

The cost of basic education is influenced by the inflation rate, regional disparities, heterogeneities across schools, and the need for adequate child-friendly facilities. Current recurrent funding is based on a uniform rate per learner without considering the school's uniqueness. The recurrent costs include fixed and variable components falling into three categories.

(i)   Minimum fixed costs relate to BOM expenses, postage, rental boxes, telephone and Internet connectivity in administration and teaching.

(ii)   Quasi-fixed costs cover personnel emolument, insurance, electricity, internet connectivity and teaching aids at a fixed band of enrolment.

(iii)   Variable costs are based on student enrolment, including costs for Learning and Teaching Materials, assistive devices, and teaching and non-teaching personnel.

A minimum infrastructure is required to support development and guarantee basic infrastructure to enable learning.

In addition, a Minimum Essential Package (MEP) for a school presents a realistic fixed operation cost and capitation to enable a school to operate irrespective of the number of students enrolled. The current capitation to schools is based on a flat-rate formula, where all learners from poor or well-to-do households receive equal capitation. For example, FPE allocation is Ksh.1,420 per pupil, and FDSE allocation is Ksh. 22,244 per student. The Equity-based funding model allows well-to-do families to pay for their children's education, thus reducing pressure on Government resources, which can be directed to cushion and support learners from poor and vulnerable households and communities. Given the cost drivers, public Primary and Secondary Schools with enrolment below 100 learners are deemed to be operating sub-optimally.

An optimum operating Primary school (one stream) should have a total of 240-360 learners, with a class size of 40-60 learners per class. This requires six (6) teachers and one (1) headteacher, and six (6) classrooms. The estimated cost is Ksh.11,760,000. A Primary school with less than 240 learners and one with less than 100 learners are considered inefficient and very inefficient, respectively.

An optimum operating Junior School (one stream) should have 180-210 learners, with a class size of 60-70 learners per class. This requires six (6) teachers and three (3) classrooms. The estimated cost is Ksh. 7,800,000. A JS with less than 180 learners is considered very inefficient.

An optimum operating Senior School (one stream) should have 180-210 learners, with a class size of 60-70 learners per class. This requires nine (9) teachers and one (1) headteacher, and three (3) classrooms. This is because of subject streams and combinations under CBC. The estimated cost is Ksh. 9,600,000. A SSS with less than 180 learners is considered very inefficient respectively.

5.4 Views from Stakeholders on Financing Basic Education

(i) Current capitation levels are inadequate to meet the rising cost of education. "Delays in disbursement capitation grants affect timely procurement of educational and instructional materials."

(ii) The top-up grant does not address the needs of specific disabilities, including the provision of assistive devices and learner Support assistance.

(iii) It takes too long to review capitation levels and thus does not take into account inflation.

(iv) School uniforms are expensive for parents because school administration collude with suppliers and force parents to purchase from a specific supplier identified by the school administration.

(v) The School Bursars and Accountants are employees of BoM, which makes them unaccountable to the MoE on issues of school finances. Their prolonged stay in one institution and collusion between them and Heads of Institution is a key risk on prudent management of funds.

(vi) The quality of data does not support a robust financial framework.

(vii) Inappropriate learning venues for ACE, with many who are accommodated in Primary schools using desks meant for children. While hosted in churches using pews which are not contusive for learning.

(viii) Budgeting for ACE as a sub-programme under the Primary education programme makes it invisible in the MTEF budget.

(ix) Stakeholders pointed out the irregular distribution of sanitary towels and their inadequacy as a major challenge. In addition, the poor WASH conditions in many schools (especially the urban informal settlements and ASALs) were observed to contribute to challenges in managing used menstruation hygiene materials.

(x) Funds used in school institutions are rarely audited, leaving gaps in the reporting of internally generated revenue.

(xi) County governments have not prioritised capitation for Pre-Primary.

(xii) Data on Pre-Primary learners is not available since it is never captured in NEMIS.

(xiii) School feeding programme in Pre-Primary, Primary and Secondary schools does not necessarily support low-income households in the ASAL and informal urban settlements as desired.

(xiv) The Government should not bear the cost of the school feeding programme. This should be financed by households, with support from other stakeholders.

5.5   Management of Bursaries and Scholarships

Over the years, the Government has provided scholarships, bursaries and grants to incentivise access, retention and transition through Education. For example, the Jomo Kenyatta Foundation (JKF) was established in 1968 to provide scholarships to vulnerable learners and improve access and transition to Secondary education. At its inception, funds were disbursed directly to Secondary schools from the Ministry of Education through the Area Education Officers (AEO) in consultation with the head of institutions.

In 2003, the Constituency Development Fund (CDF), renamed National Government –Constituency Development Fund (NG-CDF), was introduced to address challenges at the constituency level. CDF funds were then allocated to cater for bursaries at different levels of learning, including Secondary, Tertiary and University levels.

The Elimu Scholarships Fund, launched in July 2005, is a charitable organisation that seeks contributions from individual groups, corporations and foundations to provide hope, opportunity and access to education through scholarships to Kenyan students and orphans with financial needs to improve retention, accessibility, transition and completion for Upper Primary and Secondary.

In 2013, the Presidential Secondary Schools Bursary Scheme (PSSBS) was established to cater for the needs of orphaned children and vulnerable learners. To complement government initiatives, private sector partners also assist bright, vulnerable and needy learners.

In addition, private sector organisations and philanthropists have consistently partnered with the Government in educating needy learners. Annually, the KCB Foundation targets bright but needy learners (including some with physical impairment) for a full scholarship for four years of Secondary education. Since 2010, Equity Group Foundation (EGF) and Mastercard have partnered to provide the Wings to Fly Scholarship. The EGF scholarship covers school fees, transport, learning materials, pocket money, mentorship, psycho-social support and leadership development. The Cooperative Bank, Safaricom and the East Africa Philanthropic Network and Rotary Clubs have also supported Secondary Education for needy learners.

5.5.1   Views from Stakeholders on Management of Bursaries and Scholarships

(i)   Uncoordinated Bursary and Scholarship schemes — There are various sources of funding available, but they remain fragmented and uncoordinated, leading to some students benefiting from multiple awards of scholarships and bursaries, leaving many other learners without any benefit from the schemes, whereby some learners are unable to access, participate, complete and transit to Secondary education.

(ii)   Lack of clear guidelines and criteria on the management allows room for multiple allocations to undeserving recipients, "there are many cases of undeserving students benefit from bursaries due to political connections, discrimination and nepotism".

(iii)   There is limited awareness of the existence of bursaries and scholarships — beyond those provided at the constituency and ward levels. Some beneficiaries do not know how to apply for the fund or lack information on what is available,

leading to some students receiving more than one.

(iv)　Bursary and scholarship schemes are characterised by corruption, nepotism and tribalism, with undeserving 'well-connected households' benefiting more than the deserving.

(v)　Some bursary scholarships delay releasing awardees in line with their academic calendar, thus inconveniencing learners.

(vi)　Bursary and scholarship schemes do not have adequate mechanisms to enable a follow-up of successful applicants and those who have been unsuccessful in order to ensure efficiency in the utilisation of the funds allocated to recipients.

5.6　Physical and E-Infrastructure Development

In Kenya, the Ministry of Education progressively develops school infrastructure to meet the growing needs of basic education institutions through targeted infrastructure grants to public Primary and Secondary schools and capitation grants to support infrastructure expansion. This was also meant to mitigate strain due to the 100% transition from Primary to Secondary education. Infrastructure needs assessment established that 20,044 additional classrooms would be required in some 7,704 public Secondary schools to meet the demands of increased enrolment in Secondary schools. In 2021/2022, 6,500 classrooms were constructed in identified schools, and the construction of 5,100 classrooms was initiated to prepare schools for Junior Secondary education. However, school infrastructure allocation is not fixed but determined on school-specific requests and need basis, availability of funds. The identified infrastructure requirements at school are duly approved by the BOM. The lack of a framework for infrastructure development and underfunding of the development budget has compromised growth in school infrastructure. A report by the Auditor General in 2021 shows that the development budget is underfunded, which compromises the upgrading, repair and maintenance of public school infrastructure. For instance, the development capitation is Ksh. 106 per student per year (AoG, 2021).

School infrastructure development is also supported by the private sector, corporate social responsibility initiatives and the National Government Constituency Development Fund (NG-CDF). Faith-based Organisations and NGOs have also developed infrastructure in schools serving marginalised communities in urban slums and hard-to-reach areas. In FY 2020/2021, for instance, the NG-CDF initiated the construction of 4109 and 114 classrooms in Primary and Secondary schools, respectively, and a significant number of administration blocks, laboratories and toilets.

With the implementation of a 100% transition policy, the classrooms constructed to cater for Junior Secondary are already being utilised to ease congestion. Similarly, to nurture talents, there is a need for enough space for sports and outdoor activities, agricultural machinery, equipment and space, as well as equipped Science laboratories, Computer labs, Home Science, Music, and Art and Craft rooms. CBC also requires total reconfiguration of the classroom set-up replacing desks with tables and chairs to facilitate more collaborative learning arrangements in the classrooms right from Pre-Primary 1.

According to Section 75 of the Basic Education Regulations (2015), institutions of alternative basic adult and continuing education shall be provided with grants for infrastructure development by the national Government through the relevant Ministries (Gok,2015). Figure 5.3 shows temporary and permanent classrooms by County and enrolment.

Fig. 5.3: Proportion of permanent and temporary Primary and class size schools across counties (Source: Ministry of Education, 2020)

Based on the data, the country seems to have realised the recommended learner-to-classroom ratio. According to the Ministry of Education Basic Education Statistical Booklet (2019), the total number of classrooms in Primary Schools recorded in 2019 is 213,786, while the number of classrooms in Secondary Schools is 68,541. On average, there are 40 and 45 learners per class. However, there exist disparities in class sizes across the country which calls for the construction of classrooms in schools with high enrolment. In addition, the statistics on basic infrastructure in Secondary schools showed that there were 10,775 science laboratories, 2,495 libraries and 1,123 workshops, suggesting need for additional workshops and libraries to offer senior Schools under CBC effectively.

Information and communication technology through e-infrastructure development is one of the main drivers of a knowledge-based economy. Technology-based learning is becoming a necessity in the world. Conventional face-to-face classroom learning has changed due to the rise in e-learning through digital platforms, while ICT tools are used in the management of education. There are various initiatives for ICT integration in education by the Government and other stakeholders. Among these is the Digital Literacy Programme (DLP), which targets all public Primary Schools by equipping them with digital resources for effective curriculum delivery. The Report of Task Force on Enhancing Access, Relevance, Transition, Equity and Quality for Effective Curriculum Implementation (Chege, 2020) also noted that approximately 90% of public Primary Schools are connected to power and have access to digital learning programs. At the Secondary School level, Computer for Schools Programme has equipped over 3,000 public Secondary Schools. About 35% of all schools have

an Internet connection, although great disparities exist between public (32.2%) and private (46.6%) schools.

On Public-Private Partnerships (PPPs), the Odhiambo Report of 2012 grouped private sector participation under six categories, namely: Development Partners, Private Investors, Civil Society, Sponsorships, Faith-Based Organisations and Community-Based Organisations and Non-Governmental Organizations. These development partners and other stakeholders have significantly contributed to the provision of quality education in Kenya. The Ministry of Education coordinates the development partners through MoE/Donor Sector Consultative Group and the Education Donor Consultative Group. Although Kenya does not have a clear framework for PPPs in education, the private sector and faith-based institutions have played a critical role in education provision.

As of 2019, 33% of Kenya's Primary schools were private, and so were 15% of all Secondary schools. During the same year, about 7% of Primary school pupils and 9% of Secondary school students were enrolled in private schools, respectively.

5.6.1   Views from Stakeholders on Physical and E-Infrastructure

(i)   There is no system for funding physical infrastructure in schools leading to double funding, over-funding, corruption and wastage (giving advantages to some schools compared to others).

(ii)   Management of infrastructure projects from the Ministry headquarters is by excessive bureaucracy.

(iii)   To nurture talents, there is a need for adequate space for sports and outdoor activities, agricultural machinery, equipment and space, as well as equipped Science laboratories, Computer labs, Home Science, Music and Art and Craft rooms.

(iv)   CBC also requires total reconfiguration of the classroom set-up replacing desks with tables and chairs to facilitate more collaborative learning arrangements in the classrooms right from Pre-Primary.

(v)   The Education sector lacks structures for PPPs, community participation and project ownership.

(vi)   Management of projects by Public Works increases the administrative cost of some projects with low cost.

(vii)   Partial donor withdrawal due to alleged lack of transparency in accountability of the funds.

(viii)   Unfavourable conditions for collaboration among the Government, households and local communities, industry and commerce, private sector educational service providers, Faith-Based Organisations and foundations.

(ix)   Lack of a framework for the Government to interact with private institutions in the provision of education and training.

(x)   Inadequate incentives for private education investors in the education sector.

(xi)   Although Faith-Based organisations greatly supplement the Government's efforts in providing quality education through not-for-profit private schools, character formation, and increasing access, particularly to the marginalised and poor in the country – they face issues that need to be addressed,

(xii)   There is no framework guiding religious sponsorships in the provision of education countrywide. At the same time, there is no clear definition in the Basic Education Act, 2013 on the roles of religious sponsors.

5.7   Conclusion and Recommendations

5.7.1   Conclusion

Arising from the issues analysed in the previous Sections, it is concluded that education funding is a policy priority as the Government seeks to achieve high economic performance. In light of the need to achieve equity and inclusivity in education, the Government will continue to be a major source of capitation to schools, although the contribution of parents will be key for boarding schools. Going forward, the contribution of other players in education is bound to increase to meet the growing demand. Although the Government has made important strides in the provision of capitation to schools, the current level is inadequate to meet the rising cost of goods and services since it does not factor in inflation. The Capitation for JS and Senior School has also not been determined since the CBC was adopted. An analysis of the past four years revealed that expenditure in education in general and in Basic Education as a share of national government expenditure was on an upward trend, and the same is expected to continue in the coming years. This calls for measures to ensure the school managers properly manage the funds if the country is to realise the full benefit of the investment. The current audit of school funds is weak and is characterised by involvement of several players.

Some schools located in ASAL, urban and rural slums and areas with pockets of poverty are unable to enrol the required number of learners to enable them to operate optimally as schools. This makes it difficult for them to raise sufficient funds through capitation to cover fixed and variable costs, necessitating an MEP for schools.

Bursaries and scholarships complement government capitation. There are several sources of bursaries and scholarships that are fragmented and uncoordinated and without clear selection criteria of the beneficiaries. The majority of these are characterised by corruption, nepotism and tribalism, with undeserving, well-connected leaners benefiting more than the deserving ones.

Capitation to schools is based on enrolment. Yet, in some circumstances, the enrolment rate may be below the threshold to effectively sustain the running of a school. The minimum essential packages cover financial obligations in schools, independent of the number of learners. This attracts fixed costs to the learning institutions and, therefore, must be provided to enable learning to continue in an institution.

As regards the CBC, there exist huge infrastructural gaps in schools which require to be urgently addressed. The lack of data and information, coupled with the absence of criteria for identifying the schools to benefit from infrastructure funding, has left room for manipulation of the process with undesirable consequences.

5.7.2   Recommendations on Financing Basic Education

1.   Adopt and implement revised capitation to all levels of basic school institutions to reflect the actual cost of education as shown in Tables 5.6 and 5.7 respectively.

Table 5.6: Recommended Capitation for Basic Education (Ksh)

Item/Description	Pre-Primary	Primary	Junior School	Senior School
Tuition				
Textbooks and Teacher Guidebooks	374	672	1,672	1,800
Exercise Books and Stationery	270	486	1,700	2,000
Curriculum Support Materials	251	500	1,024	1,500
ICT Materials	130	100	330	800
School-based Capacity Development for Teachers and Management	100	50	100	444
Laboratory			1,000	1,300
Sub-Total	**1,125**	**1,808**	**5,826**	**7,844**
Operational Expenses				
Repairs, Maintenance and Improvement (RMI)		111	1,250	2,500
Local transport and travel		67	116	516
Electricity, water, conservancy (EWC) and internet		100	600	600
Activity and co-curricular activities		100	800	1,500
Telephone/box rental, postage		52	147	147
Environment maintenance costs			184	200
Dignity Kitty (Sanitary Towels for girls from 13 years old)			270	270
Non-Teaching Staff Wages			1,850	2,250
Medical Insurance				2,000
Sanatorium				500
SMASSE				200
Sub-Total	**45**	**430**	**5,217**	**10,683**
Infrastructure Development for the Initial 5 Years			4,000	4,000
Capitation per learner	**1,170**	**2,238**	**15,043**	**22,527**
Special Needs (additional capitation Pre-Primary 604, Primary 3,624, JS 10,000 and SS 35,000)	**1,774**	**5,862**	**25,043**	**57,527**

2. MoE to develop guideline to regulate and liberalise the question of school uniform in basic education institutions.

3. MoE to strengthen the school Audit unit to enable it to support BOMs with internal audit functions and capacity-built school managers, and auditor general to undertake external audit.

4. MoE to recruit accountants/accounts clerks in basic learning institutions to enhance management and accountability of funds.

5.   MoE to develop a framework to facilitate engagements with development partners.

6.   MoE to partner with NG-CDF on infrastructure development in schools.

7.   Adopt a Minimum Essential Package (MEP) to schools of Ksh. 70,200 for Pre-Primary; Ksh. 537,120 for Primary education, Ksh. 2,030,805 for Junior School, Ksh. 3,041,145 for Senior School as shown in Table 5.7. Appropriate top-up will apply for schools with Special Needs Education.

Table 5.7: Minimum Essential Package (Ksh) Per Year for Basic Education

Level of Education	Classes	Streams	Enrolment per class	Capitation (Ksh)	MEP (Ksh)
Pre-Primary	2	1	30	1,170	70,200
Primary	6	1	40	2,238	537,120
Junior School	3	1	45	15,043	2,030,805
Senior School	3	1	45	22,527	3,041,145

8.   MoE to reform the disbursement procedure of infrastructure funds by involving County Education Boards which shall be responsible for the identification of schools to benefit from infrastructural funds using objective criteria.

9.   MoE, in collaboration with the Ministry of Lands, Public Works, Housing and Urban Development to adopt alternative building technology for schools.

10. MoE to develop a framework for resource sharing, especially the infrastructure and other resources at all levels of learning.

CHAPTER SIX

EQUITABLE ACCESS AND INCLUSION IN EDUCATION

6.1   Introduction

The highest-performing education systems are those that combine equity with quality. Equity in education means that personal or social circumstances, such as gender, ethnic origin or family background, are not obstacles to achieving educational potential (fairness) and that all individuals reach a basic minimum level of skills (inclusion). In these education systems, the vast majority of students have the opportunity to attain high-level skills, regardless of their own personal and socio-economic circumstances (OECD, 2012). The evidence is conclusive that equity in education pays off. However, despite efforts by the Government of Kenya to provide high-quality education, significant disparities in educational outcomes continue to exist. Many students fail to obtain a minimum level of education, jeopardising their future and the progress of society.

To achieve equity and inclusion in education, concerted efforts must be made to remove obstacles to enrollment and completion of schooling, which may vary among marginalised groups. Equity in education thus entails acknowledging and being committed to girls, refugees, those from low social-economic backgrounds, and persons with special needs or learning difficulties to ensure no one is left behind (Thompson & Barbara, 2019). Therefore, an important part of this Chapter is to structure programmes for learners with disabilities, difficulties, and disadvantages in a way that respects and protects these groups' rights.

6.2   Global and Regional Context on Equitable Access and Inclusion in Education

The out-of-school children and youth stood at 244 million (UNESCO, 2020), with 98 million children and youth in Sub-Saharan Africa. A proportion of 19.9% are Primary school age, 33.2% are lower Secondary school age, and 47.8% are upper Secondary age (UNESCO, 2022). These children and youth are mostly those from poverty-stricken backgrounds; refugees; marginalised groups; persons living with disabilities or those with special learning needs; street children; those in statutory children's institutions; and children in Alternative Provision of Basic Education and Training (APBET).

Formulating and implementing policies and strategies on Special Needs Education (SNE) that are tailored to the needs of students with special learning needs are steps taken by many countries to realise equitable access and inclusive Education For All

(EFA). For example, in Germany, students with temporary learning disabilities, such as those with reading and writing difficulties, are qualified for special needs schooling and get differentiated teaching (EASNIE, Country Information for Germany, 2018). In Canada, there are regulations for the identification of learners with special needs at no cost to families. However, learners with special learning needs require the support of assistive devices, adapted curriculum and modified infrastructure to attain functional learning in education.

The marginalised groups have the right to get quality education without discrimination or exclusion. Social justice and equity are becoming increasingly associated with educational accessibility through which socially deprived people can come to the mainstream. However, most developing countries continue to face challenges in guaranteeing equal educational opportunities to all their citizens. The marginalised groups are often left behind, denying them right to education. Education in various forms catalyses social change and the achievement of social justice. To develop an egalitarian society, the education system can play a prime role in equipping children to draw out their capabilities, thus guaranteeing them a deserving place in society. It appears that current educational programs should be refined to address the needs of children vulnerable to marginalisation and exclusion to build a better future together. The marginalised include those learners in ASAL regions, slums and those excluded by acts of nature like floods, drought, displacement and conflicts.

The Universal Charter of Human Rights solemnly proclaimed the right to education for all citizens in 1948. Globally, efforts have been made to increase access to quality education. These include the Jomtien Framework of 1990, which encouraged countries to explore alternative education delivery channels through which children and youth who were out of school could be reached and encouraged to participate in education and stay on to completion. This then led to the development of the Dakar Framework for Action in 2000, which recognised basic learning as a prerequisite for human development. In addition, EFA Goals committed countries to promote learning and life skills programs by 2015. Unfortunately, most developing countries had not achieved their targets by 2015. The Sustainable Development Goals also echo the need to reduce inequalities in all sectors, including education, to foster sustainable economic development. Specifically, SDG 4 aims to ensure inclusive and equitable quality education and promote lifelong learning opportunities for all.

The Continental Education Strategy for Africa (CESA) is a strategy informed by AU 2063 Agenda, which identifies equitable and inclusive access to education for all as a priority in the region. Article 120 (c) of the East African Community Treaty articulates the development and adoption of a common approach towards the disadvantaged and marginalised groups, including children, the youth, the elderly and persons with disabilities through rehabilitation and provision of, among others, foster homes, health care education and training (GoK 2021).

To ensure adult and continuing education aligns with the dynamism of an ever-changing society and ensure learners are equipped with the necessary skills and knowledge to match global trends, there is a need for curriculum reforms. In addition, there is a need to sensitise the population on the place of adult and continuing

education to benefit those who require such education. In the UK, Adult Learning Week, spearheaded by the National Institute of Adult Continuing Education (NIACE), has had increased publicity and provided platforms to advocate for policy change for the under-represented and marginalised population, including migrants, to achieve equity and social justice (Tuckett, 2021).

6.3 National Context

6.3.1 Special Needs Education

The Sector Policy for Learners and Trainees with Disabilities (MoE, 2018) identifies eleven categories of learners with special needs and disabilities, as shown in Table 6.1.

Table 6.1: Categories of Learners with Special Needs

No.	Categories
1.	Hearing impairment (from hard of hearing to deafness)
2.	Visual impairment (from low vision to blindness)
3.	Deaf-blindness
4.	Physical impairment
5.	Intellectual and developmental disabilities
6.	Specific learning disabilities (dyslexia, dyscalculia, dysgraphia)
7.	Cerebral palsy
8.	Speech and language difficulties
9.	Multiple disabilities
10.	Autism
11.	Albinism

However, gifted and talented learners with psychosocial and other health challenges are excluded from this category, yet they have special learning needs.

Assessment of children with special needs and disabilities to determine the nature and degree of disability is necessary to guide on services required to facilitate functional learning. There exist various barriers to access to education that ultimately leads to exclusion. These barriers include inadequate infrastructure; physical inaccessibility; discrimination and stereotypes; and challenges in admission processes, especially in regular schools.

Learners with special needs in education experience activity limitations due to disabilities, which necessitate adaptation of curriculum, environment and activities of daily living. There are inadequate specialised learning materials, assistive devices and adapted technologies such as Braille for the visually impaired, wheelchairs for the physically challenged, and talking computers for people who are blind. Capitation for learners with special needs is way below the requirements to promote equitable access and inclusion in education. While Kenya's Ministry of Education provides Ksh. 2,300.00 per learner per year as top-up capitation for specialised learning resources,

reports indicate that assistive devices are unavailable in the schools. Specialised learning resources, devices, and technologies are not readily available in the open market and cannot be easily obtained directly by parents and individual schools.

The development of home-based education programmes that link children with severe and profound disabilities to neighbourhood schools has not been fully realised, with many such children being kept away from school. In addition, there is a shortage of specialised teachers in schools to serve the various needs of learners with Special Needs in Education. The SNE staff shortages are unclear due to insufficient data on SNE learners in special schools, units and inclusive programmes.

Learners with Special Needs have continued to perform dismally in National Examinations. Some of the causes of challenges experienced are; the language of instruction and language of assessment differences, lack of appropriate learning resources to suit learners, limited vocabulary due to limited incidental learning, inadequate skills in Signed Exact English (SEE) and KSL leading to the use of Sign Language Interpreters who are not teachers, and this leads to distortion of information.

6.3.1.1 Views from Stakeholders on Special Needs Education

A total of 2,116 submissions were made from stakeholders concerning SNE. Results from the submissions indicated that SNE is underfunded (22.21%), hindering quality education. According to stakeholders, Special Needs Education has faced various challenges that include inadequate specialised learning resources, assistive devices and adapted technologies; lack of qualified human resources; poor methods of identification and assessment of learners with disabilities; admission and placement of learners; and little adaptation on curriculum and assessment for SNE as shown in Figure 6.1.

Issue	Percentage
SNE teachers not receiving special allowance	0.76%
Government does not pay assessment fee for SNE learners	3.12%
Deployment of SNE teachers to regular schools	3.31%
Limited parental involment in SNE institutions	3.97%
Curriculum for SNE not adopted for all levels	6.66%
Educational assessment and Resource centres (EARC) inadequately resourced	6.90%
Diverse modes of asessment for SNE learners poorly coordinated	7%
CBC is not sensitive to SNE learners	13.94%
Inadequate staffing (both teachers and support staff)	13.94%
Inadequate learning assistive devices and resources	19.99%
Inadequate funding	22.21%

Fig. 6.1: Issues raised on SNE

In addition to the submissions presented in Figure 6.1. The following verbatim statements are presented:

> *It is also not sensitive to learners with disabilities. Especially on ICT integration.*
>
> *Lacking special needs curriculum is a lie and a creation of a few who may be out for undisclosed interests.*
>
> *CBC is poor in inclusive since it doesn't favour disability on both children and parents' side.*

6.3.2   Education for the Marginalised

Marginalisation is a universal tendency related to social stratification that may be gender-related; culture-related; location-related; or poverty-related. Marginalisation denies opportunities and benefits to individuals living on the margins of society (Ramesh, 2013). The lower literacy level of education and the continued discrimination of the marginalised in educational institutions pose a major problem. The marginalised learners in Kenya include those from poverty-stricken families; refugees and asylum seekers; those in correctional facilities; street children; and those from ASAL and urban informal settlements.

Data from the Ministry of Education in 2022 showed that 3,123 inmates (2,681 males and 442 females) were enrolled in basic education, and 9,225 inmates were undertaking vocational courses. According to UNHCR (2022), Kenya had over 280,000 refugees and asylum seekers aged 4 to 18. However, the report showed that more than half were out of school. Some barriers to refugee school enrolment include overcrowding without corresponding investments; parallel education institutions in camps; insufficient supplies and resources; and a shortage of qualified teachers. Further, reports show that 1.8 million Kenyan children aged between six and eighteen are not in school (UNESCO, 2022).

Although Kenya has already made significant strides in expanding schooling facilities for all children, considering the existing disparities, a multifaceted endeavour is required to balance quality and quantity to ensure that its benefits are available to all Sections of society living in different regions. This should be an integral part of policy interventions for promoting social justice in society. Educational inequality decreases opportunities for children with low economic backgrounds, socially marginalised groups and children with disabilities and special learning needs.

6.3.2.1 Views from Stakeholders on Education for the Marginalised

The following are some of the views raised by stakeholders on marginalisation:

(i)   Teen mothers lack support leading to feelings of isolation, loneliness, stress, and depression.

(ii)   Lack of a policy on refugee education.

(iii)   Stakeholders indicated that the CBC was not being implemented in the statutory children's institutions under the Directorate of Children's Services. In addition, they reported a shortage of instructional and training materials, qualified teachers, tools and equipment to support the vocational courses.

(iv)   APBET schools were not registered with the MoE and were not officially recognised. However, stakeholders observed that the inadequacy of public schools in the slums was to blame for the spread of APBET schools.

(v)   Stakeholders proposed that Duksi be integrated into formal Basic Education in order to enhance access, retention and completion in formal Basic Education for learners from the Muslim community.

(vi) Stakeholders pointed out the irregular distribution of sanitary towels and their inadequacy as a major challenge. In addition, the poor WASH conditions in many schools (especially the urban informal settlements and ASALs) contributed to challenges in managing used menstruation hygiene materials.

(vii) Lack of classrooms. In most prisons, learning occurs in rooms not conducive to learning, such as cells, corridors, abandoned kitchens and stores.

6.3.3   Adult and Continuing Education

Every Kenyan citizen has the right to education and the right to quality services as stipulated in Article 43 (1) (f), 53 (1) (b), and 46 (1) (a) of the Constitution of Kenya (GoK, 2010). Vision 2030 Blueprint recommends that education be reformed to respond to challenges that retard national development, which include ignorance and illiteracy and the provision of knowledge and skills required to steer Kenya's social and economic development. Uwezo Kenya (2015) shows that parents' literacy levels positively correlate with school attendance and learning achievement.

Literacy is a prerequisite that transcends all development sectors, including agriculture, health, education, trade and technology. No meaningful progress can be made in these sectors if illiteracy persists. Literacy is a way out of poverty and a means to economic recovery. Illiteracy frustrates government efforts to bring about socio-economic development, especially among adults. Adults are the producers of the country's goods and services. They are the creators and custodians of our national wealth. Illiteracy, however, locks their potential to perform this noble duty effectively. It deprives them of the opportunities to exercise their democratic rights and inhibits their potential to produce and contribute towards the country's economic growth (UNESCO, 2008).

Parents are the child's first teachers, building a critical foundation for the child's social, cognitive and emotional development. Parents should be supported to acquire knowledge, skills, abilities and attitudes to engage in academic and non-academic practices at home and school to help the learners realise their full potential. It requires continuous learning and sacrifices to be a good parent. The provision of adult education in Kenya can be traced back to the 1700s through apprenticeship programmes where adults learnt art or trade by working for a skilled master for a certain number of years.

Efforts to provide adult literacy in Kenya were recognised soon after independence in 1963 when the aims of adult education were identified as a way to curb illiteracy; impart relevant knowledge, skills and attitudes for survival; foster self-esteem; and inculcate desirable behaviour as far as life and society were concerned. With these objectives in mind, the initial subject matter in the adult education programme included literacy, health and nutrition, family life, agriculture, environmental studies and civics (Kibera, 1997).

As a demonstration of the commitment of the independent Government towards the promotion of ACE, the Board of Adult Education was established through an Act of

Parliament in 1966 (ROK, 2007a; Ndiku et al., 2009). The board was mandated to coordinate, advise and regulate adult education providers in Kenya. This was further enhanced by legal and policy documents such as the Master Plan on Education and Training (MPET) 1997–2010, Poverty Reduction Strategy Paper (PRSP) 2001-2003, Economic Recovery Strategy for Wealth and Employment (ERSWEC) 2003-2007 and Sessional Paper No. 1 of 2005 on a Policy Framework for Education, Training and Research (ROK, 2005a).

A nationwide and purposeful Adult Education program was implemented only in 1978 through a Presidential decree. Its purpose was to eliminate adult illiteracy in five years and also help the participating adults employ the skills so gained in economic and social ventures that would improve their quality of life and to participate meaningfully in national development. This period witnessed the employment of 3,000 full-time instructors and additional 5,000 instructors to meet the growing demand for adult literacy. However, the Government's objective of eradicating illiteracy in 5 years was not realised. This was due to low teacher motivation due to poor remuneration resulting in irregularity in class attendance; lack of teaching and learning materials; lack of income-generating activities; inadequate training and high turnover of part-time teachers; and inadequate and inappropriate learning venues, among others. Some milestones, however, were realised in areas of collaboration of communities with NGOs and other government departments, resulting in a reduction of adult illiteracy from an estimated 50% in 1979 to 38.5% by the end of 2006 (Kenya Country Team, 2008).

The full-time instructors have since exited the service through natural attrition without replacement leading to the closure of many ACE centres. The TCAE certificate course, mainly done privately, does not meet the requisite quality and standards; and the lack of a clear professional development plan for the instructors has negatively impacted enrolment and the ACE programme. It is worth noting that participation in the ACE programme has continued to decrease. Figure 6.2 shows the enrollment trend over the last five years.
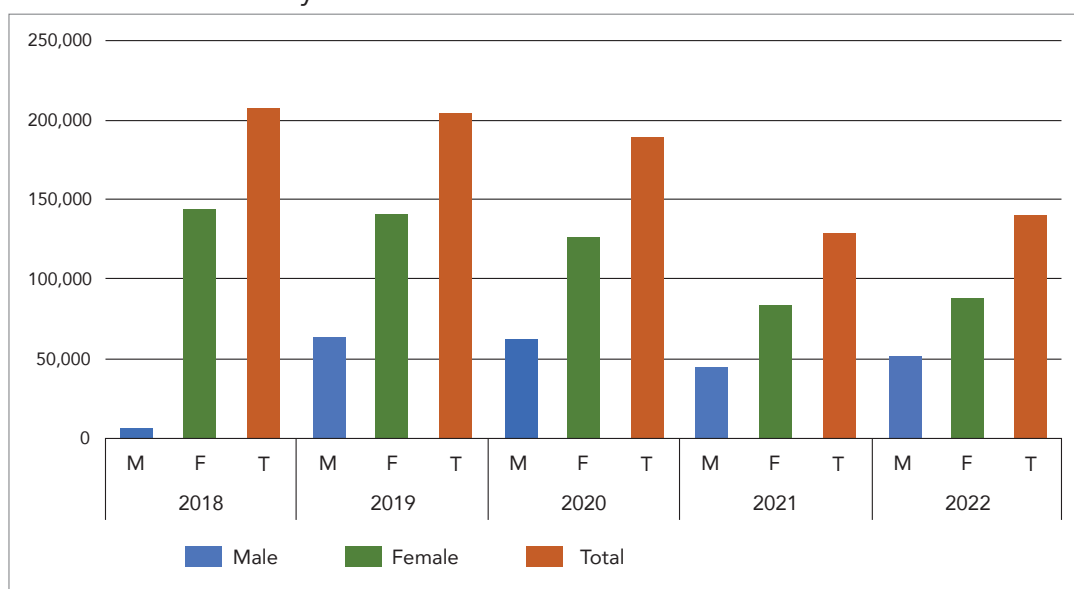
Fig. 6.2: Learners' enrollment in ACE from 2018-2022 (Source: Ministry of Education, 2022).

Pertinent issues that impact the implementation of ACE include curricula reform, shortage of instructors, inadequate and inappropriate learning venues, lack of current data on literacy levels and low levels of awareness of the ACE programme and lack of a framework for certification. Others include a lack of Pre-service and in-service training for adult education instructors. Masinde Muliro University of Science and Technology (MUST) offers a Diploma in Adult Education, a Bachelor of Adult Education and Community Development Diploma, and bachelor's and post-graduate studies in Adult Education and Community Development. However, due to the lack of a middle-level college for adult educators, instructors in adult education study privately, register and sit for the TCAE Examination, which is administered by the Kenya National Examinations Council (KNEC). The ACE programme is characterised by inadequately trained adult education instructors and a high turnover of volunteer instructors (GoK, 2019). Moreover, the adult education instructors were not inducted into CBC despite their critical role in its implementation.

Adult and Continuing Education applies a different approach from the regular formal curriculum. The needs of adult learners are unique and different from those of children. Therefore, adult learners require accelerated and tailor-made curricula specific to their learning needs. The curricula should provide equivalences and linkages in terms of complexity and value to the formal curricula. This provides the ACE learners with the needed opportunity to link with the formal system and *vice versa* if need be (GoK, 2018). The Basic Education Curriculum Framework, on which the CBC is anchored, did not provide a pathway for out-of-school youth, adults and other disadvantaged groups. To review the ACE curricula, MoE through KICD developed the Adult Basic Education and Training (ABET 1,2,3) and the Adult Teacher Training Curricula (ATEC) but were not implemented save for ABET 1. Other curricula include the post-literacy curriculum, which targets neo-literates from the basic literacy classes.

To ensure inclusivity, Kenya developed the National Policy on Older Persons and Ageing (2014), in which Section 2.7.3 outlines the need for collaboration between the Government and relevant stakeholders to promote lifelong education and technology to enhance their positive self-esteem, self-reliance and functional literacy. There is a need for a clear framework to actualise this policy. There is a need to address the challenge of low awareness of the ACE programme through increased publicity and advocacy of ACE activities, commemorating International Literacy Day (ILD), and information sharing through publications.

Recent developments underscore the relevance of lifelong learning. These include an increasingly globalised world, the introduction of new technologies, the changing nature of information, demographic shifts, social transformations, climate change, urbanisation and the constant need to upgrade competencies to meet labour market demands (UIL 2014). Community Learning Centres (CLCs) act as important vocal points for lifelong learning. They play a critical role as venues for community education and empowerment. In Kenya, there are 197 CLRCs spread across all 47 counties across the country. They serve as Information, Communication Centres, Recreational Centres, Centers for Preserving our Cultural Artifacts, Social and Economic

Empowerment Centres, Educational Centres and Community Libraries. Through the National Education Sector Strategic Plan (2018-2022), the Government established 300 additional learning centres and rehabilitated 300 Community Learning Resource Centres (Republic of Kenya, 2018).

Evidence-based planning is important in the education sub-sector. This entails collecting reliable and timely data through baseline surveys. For example, the Kenya National Literacy Survey (KNALS) was conducted in 2006 to ascertain the magnitude of illiteracy in the country. The key findings of the survey were high adult illiteracy of approximately 7.8 million (38.5%), and wide regional and gender disparities in literacy levels in the country, with Nairobi recording 87.1% and North Eastern province recording an 8.1% literacy rate. Other findings were high illiteracy rates and low participation of the critical cohorts of the population in ACE program, limited capacity for quality assurance and standards, low awareness of the ACE program in the country at 31%, acute shortage of teachers, lack of an Adult and Continuing Education (ACE) policy and transition mechanisms, limited access to the ACE program, negative image, inadequate teaching and learning materials and limited ICT capacity for e-learning (ibid).

In an attempt to address the challenge of low awareness of ACE programme, publicity and advocacy of ACE activities include commemorating International Literacy Day (ILD), holding advocacy workshops, Adult Learners Week, and publications such as brochures and posters and other Information, Education, and Communication (IEC) materials. The purpose of publicity and advocacy is to create awareness and mobilise learners for participation in the ACE program. The awareness of the ACE programme is low in Kenya due to limited funding, resulting in low access and participation. This does not align with efforts aimed at efficient and effective ACE programme implementation hence the need to enhance publicity and advocacy of the programme.

6.3.3.1 Views from Stakeholders on ACE

(i)   The Basic Education Curriculum Framework on which the CBC is anchored did not capture education for out-of-school youth, adults and other disadvantaged groups. Moreover, there are no linkages and transition mechanisms between formal and non-formal approaches, which poses a challenge to the provision of ACE. The National Qualifications Framework, in its current form, does not have a provision for linkages between formal and non-formal education. As a result, there is a lack of equivalencies and linkages between these two forms of education to ensure equity and inclusion.

(ii)   Lack of a middle-level college for adult educators coupled with outdated instructors' education and training curriculum, particularly at the certificate level. Instructors were not inducted into CBC.

(iii)   The acute shortage of instructors in ACE centres and lecturers in Multi-purpose Development Training Institutes MDTIs) due to mass retirement

without replacement has led to the closure of ACE centres resulting in low visibility of the ACE programme. High turnover of part-time instructors who form the bulk of the instructors as they are paid only a token of Kshs 2,000.00 per month hence demoralised.

(iv) Inadequate and inappropriate infrastructure: ACE programme is run in 'borrowed' facilities, e.g., schools, community halls, schools, religious facilities, and private premises.

(v) Lack of current literacy rate in Kenya, as the last survey was conducted in 2006. According to IIEP, A sound education sector plan is evidence-based in that it starts from data, analysis and research, often in the framework of a sound education sector analysis. The lack of reliable data has negatively impacted the planning of the ACE programme.

(vi) The awareness level of the ACE program remains low due to the low visibility of the ACE programme.

(vii) Proficiency certificates are not recognised as they are region specific and not awarded by a recognised examining body or lack examination equivalencies to the formal system.

Some of the verbatims that support the views mentioned above were:

Every Kenyan should access relevant education at any age and any stage. Adult education should be given as much prominence as basic and tertiary education, recognising that adulthood is a longer part of human life (RESP187).

Create numbers 'adult schools' as it happened some years back where all people who dropped out of school can go and upgrade their education (RESP188).

6.4   Conclusion and Recommendations

6.4.1   Conclusion

It is widely acknowledged that education has an important role in achieving a greater degree of social justice. Social justice and equity are associated with educational accessibility through which socially deprived people can come forward to the mainstream. Marginalised groups are often left behind, denying their right to education. Education is a catalyst for the process of social change and the achievement of social justice. However, many children, youth and adults in Kenya remain disadvantaged and excluded from the educational system and hence cannot participate meaningfully in their communities' economic, social, political and cultural life.

The provision of Special Needs Education has been severely hampered by inadequate funding, lack of requisite resources, and low staffing levels. The situation is compounded by inappropriate assessment methods, late identification, and placement of learners with special needs. In addition, many institutions offering SNE have infrastructure and environments that are not modified to suit learners with Special Needs. There is

a need, therefore, to re-look at the capitation, staffing, curriculum, infrastructure, and learning environment of the SNE. The need for customised, adaptive, and relevant curriculum resources should be prioritised by curriculum developers.

Adult and Continuing Education is an important program that raises the nation's literacy level, promotes socio-economic development, and contributes positively to the learning of children from parents with high literacy levels. However, the ACE programmes are hampered by a lack of updated data, infrastructure, human and physical resources, and inadequate instructors. There is a need to explore various approaches that will allow the integration of functional literacy in parental education, given the sub-sectors role of parental engagement and empowerment in the CBC. Considering the emerging challenges in the modern world, such as climate change, building job-relevant and post-literacy skills for learners enrolled in ACE through accelerated learning interventions will allow them to be productive in the dynamic labour economy.

Notably, implementing programs that address equitable access and inclusion in education for the SNE, marginalised, and ACE requires well-structured, demand-driven and coordinated strategies to promote these groups' foundational skills, self-efficacy, values and positive behaviour that are likely to trickle down to the younger generation. Most importantly, these investments will accelerate knowledge development and attitudes shift on education for an improved quality of life, equity and inclusion in education, and ultimately raise literacy levels among the youth, adults and other disadvantaged and marginalised groups.

6.4.2   Recommendations on Equitable Access and Inclusion in Education

1.   MoE to review policies and guidelines on Special Needs Education with a view to:

(i)   Establish strategies for centralised production, repair, maintenance, and distribution of Specialized Learning Resources, Assistive Devices and Adapted Technologies.

(ii)   Deploy adequate and trained auxiliary staff, including braille transcribers, Sign Language Interpreters, Learning Support Assistants and Physiotherapists to institutions of learning.

(iii)   Establish a National Framework for the Assessment, referral and placement of Learners with Special Needs and Disabilities.

(iv)   Adapt both curriculum and Curriculum-based Assessment to meet the needs of learners with Special Needs and Disabilities.

2.   MoE to enhance accelerated education programmes for marginalised learners and learners in APBET institutions.

3.   KICD to review the ACE and Adult Teacher Education Curricula with a view to:

(i)   Be in harmony with CBC.

(ii)   Provide accelerated curricula with equivalences and linkages to formal education.

4. MoE to review policy and guidelines for ACE with a view of:
    (i)   Revamping the existing and establish more Community Learning Centres in order to increase access
    (ii) equipping the centres with learning materials and resources, including adequate human resources (instructors);
    (iii) carrying out periodic literacy surveys to inform decision-making.
5. MoE to develop a policy for the promotion of lifelong learning.

CHAPTER SEVEN

LAWS GOVERNING BASIC EDUCATION

7.1 Introduction

The Constitution provides the foundation for basic education in Kenya, with Article 43 (f) recognising education as a fundamental socio-economic right, while Article 53 (1) (b) guarantees every child the right to free and compulsory basic education. Further, every person with a disability is entitled to access educational institutions and facilities that are integrated into society to the extent compatible with the interest of the person as stipulated in Article 54 (1) (b). The Article provides that a person with any disability is entitled to access educational institutions and facilities for persons with disabilities. Further, Article 56 (b) provides that the State is required to put in place affirmative action programmes to ensure that minorities and marginalised groups are provided special opportunities in the field of education.

Kenya has also ratified several international treaties in the field of education, which, by virtue of Articles 2(5) and 2(6) of the Constitution, form part of Kenyan law and provide for the right to basic education. These include: the International Covenant on Economic, Social and Cultural Rights (ICESCR); the International Covenant on Civil and Political Rights (ICCPR); the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); Convention on the Elimination of all Forms of Racial Discrimination (CERD); Convention on the Rights of the Child (CRC); the Convention on the Rights of Persons with Disabilities (CRPD); Convention Relating to the Status of Refugees; International Labour Organization (ILO) Convention concerning Worst Forms of Child Labour; African Charter on Human and Peoples' Rights (ACHPR); and African Charter on the Rights and Welfare of the Child (ACRWC).

The governance of basic education under the Constitution is a shared function between the national Government and the county governments and also involves the Teachers Service Commission as a constitutional body. While the national Government has responsibility for education policy, standards, curricula, examinations, Primary Schools, Special Education, Secondary Schools and Special Education Institutions, and promotion of sports and sports education, the County governments are responsible for Pre-Primary education and childcare facilities within their jurisdictions. On its part, the Teachers Service Commission is charged with registering, employing, promoting, disciplining and paying teachers who teach in Basic Education institutions.

To give effect to the Constitution, the Basic Education Act was enacted in 2013 to regulate the provision of basic education and adult basic education in Kenya, while the Early

Childhood Education Act No. 3 of 2021 provides a framework for the administration of early childhood education within a County. Other relevant laws include: The Children's Act; the Persons with Disabilities Act; the Kenya Institute of Curriculum Development Act; the Kenya National Examinations Council Act; the Teachers Service Commission Act; the Kenya Literature Bureau Act; the Kenya National Commission for UNESCO Act; the Borstal Institutions Act; and the County Governments Act.

Despite the constitutional provisions and enactment of an array of laws to govern the education sector, governance challenges have continued to be experienced in the sector, as evidenced by numerous conflicts, court cases, and complaints by the public and other stakeholders. Against this background, the PWPER was tasked to study all laws governing the Basic Education sub-sector and make recommendations for review of these legislations to address duplication, ambiguities, efficiency constraints and improving linkages.

7.2   Global and Regional Context

Compulsory Basic Education in many countries is guaranteed under their Constitutions and legal frameworks. For example, in Finland, the Constitution provides that everyone has a right to basic education free of charge. This is buttressed by The Basic Education Act, which lays down provisions for comprehensive and compulsory school education. In India, the Constitution makes education a fundamental right for children aged 6-14. The Right of Children to Free and Compulsory Education Act, 2009 is the main legislation, and it obligates State Governments and local bodies to ensure that every child gets an education in a school in the neighbourhood.

In Africa, the right to basic education is entrenched in the Constitutions of the Republic of South Africa, Zambia, Rwanda and Uganda. Each of these countries has a Ministry of Education to oversee the sector. For example, in Finland, it is called the Ministry of Education and Culture, while in India, it is the Ministry of Education.

South Africa has the Department of Basic Education, whose mandate is to monitor the standards of the provision, delivery and performance of education and assess compliance with the provisions of the Constitution and the national education policy. The department shares a concurrent role with the provincial departments for basic schooling and ECD, but it is the responsibility of each Provincial department to finance and manage its schools directly. In Zambia, education is managed centrally by the Ministry of General Education, which is responsible for Early Childhood Education, Primary education, Secondary education, teacher education colleges and public Universities. A Teaching Council of Zambia under the Ministry also exists to regulate teachers, their practice and professional conduct.

7.3   National Context

Kenya's legal framework underwent a paradigm shift in 2010 following the promulgation of the Constitution on 27th August 2010. The promulgation brought a raft of changes geared towards creating a society that respects the liberties and livelihoods of the citizenry without discrimination.

Following the adoption of a new Constitution in 2010, which created an environment

for education and training that ensures relevant human and social capital for sustainable development, the Ministry of Education set up a Task Force in 2011 chaired by Professor Douglas Odhiambo to align the basic education sub-sector to the constitutional dictates. The Task Force's recommendations led to the development of Sessional Paper No. 14 of 2012: *A Policy Framework on Reforming Education and Training Sectors in Kenya*. This was later revised as Sessional Paper No. 1 of 2019: *A Policy Framework for Reforming Education and Training for Sustainable Development in Kenya.*

The Task Force, through the policy, recommended the enactment of the following pieces of legislation in Basic Education:

(i)   The Basic Education Act No. 14 of 2013.

(ii)   Kenya National Commission for UNESCO Act No. 5 of 2013.

(iii)   The Kenya Institute of Curriculum Development Act No. 4 of 2013.

(iv)   The Kenya National Examination Council Act No. 29 of 2012.

(v)   The Teachers Service Commission Act No. 20 of 2012.

The enactment and implementation of the laws have not resulted in greater efficiency and coherence in the sub-sector. Instead, there has been witnessed a surge in the number of cases in Court. The main issues that have been canvassed in the court cases included:

(i)   The overlapping mandate of government agencies;

(ii)   Employment relations between the employee and the employer;

(iii)   Quality of service provided by the government agencies to its citizenry;

(iv)   Governance structures as established in several statutes;

(v)   Mis-appropriation of resources by public officers entrusted with such resources;

(vi)   Non-operationalisation of some agencies as provided in law;

(vii)   Implementation of CBC;

(viii) Establishment of government agencies and policy documents, among others, without consultation of key stakeholders;

(ix)   Exercise of religious rights in learning institutions; and

(x)   Registration of learners.

While citizens will always approach Court for the determination of issues they feel are infringing on their rights, the sub-sector may have avoided some of the court cases through a coherent legal framework, elimination of overlaps and conflicts and effective adherence and implementation of the legal framework.

7.4   Analysis of Laws Governing Basic Education

7.4.1   Early Childhood Education Act

(a)   Duplication of roles in the management of public ECE centres and Primary Schools domiciled in the same compound

Section 55 (1) (a) of the Basic Education Act provides for the establishment of Board

of Management (BoM) in education institutions by the national Government, while the county government is required under Section 29 (1) of the Early Childhood Education Act to establish BoM for every early childhood education centre. Where these two institutions are domiciled in the same compound, it means that there are two sets of BoM in the same compound but reporting to two separate levels of Government. Further, the Early Childhood Education Act creates the Office of the Head Teacher in an early childhood education centre. Where such a centre is linked to a public Primary School, it means there are two Head Teachers in one compound, which may create conflict.

(b)   Quality Assurance Under ECE

Part VII of the Early Childhood Education Act makes provision for Quality Assurance, and Section 63 establishes the Early Childhood Assurance Committee. However, education standards fall under the national Government by dint of the Fourth Schedule of the Constitution. Additionally, matters of curriculum development, training of Pre-Primary schoolteachers and management of examinations are a function of the national Government, which contributes to the management of quality assurance and education standards.

(c)   Resource Sharing

The Act does not provide for synergy between Pre-Primary, Primary Schools and Junior Secondary Schools on management and sharing of resources, which may lead to compromised education standards, especially in Pre-Primary Schools.

(d)   ECE Teacher Management

While the early years of implementation of the Constitution witnessed legal challenges regarding the management of ECE changes, the High Court, In the case of *KNUT v. The Attorney General & 4 others (2016)*, clarified that County governments have the power to recruit ECE teachers but must do so only from the register of trained registered teachers held by the TSC within its constitutional mandate.

Despite the above clarification, ECE teachers still face challenges in their employment. This arises due to disparity in remuneration by county governments. Although there is an agreed scheme of service for the ECE teachers, there is no harmony in its implementation by counties. Stakeholders decried this disparity as it demoralised the ECE teachers, thus affecting the quality of teaching.

7.4.2   Basic Education Act

(a)   Bloated BoMs

The Basic Education Act provides for the composition of BoMs at 14 Members. However, this number may rise to a maximum of 17 due to the power granted to BoMS to co-opt a maximum of 3 members. This number is large and unsustainable.

Stakeholders pointed out that this led to BoMs being bloated and in need of restructuring. The submission is captured verbatim:

> *The BoMs and PAs in basic education institutions are too large and expensive to maintain. This is causing problems in schools* (RESP133).

> *The stakeholders also pointed out that the national government administration office (NGAO) lacked representation in the BoMs, denying this institution advice on security matters.*

(b) Parents Teachers Association

Section 2 of the Basic Education Act provides a definition for "Parent's Association", while Section 55 (2) and (3) provides that every school shall have a "Parents Association" and every private school shall establish a "Parents Teachers Association". Section 20 (1) (h) then provides that the Composition of the County Education Board (CEB) shall include two representatives of the "Parents Teachers Association". Further, the Third Schedule to the Act provides for the establishment and functions of the "Parents Association". Unfortunately, the use of the terms "Parents Association" and "Parents Teachers Association" interchangeably throughout the Act creates confusion and does not give clarity on whether the association is for parents or both parents and teachers.

(c) National Education Board

Section 5 (1) of the Basic Education Act provides for the establishment of the National Education Board (NEB). However, the Board is moribund and duplicates the role of the Cabinet Secretary and staff at MoE. This was also noted by the stakeholders, who observed that the role of the Board vis-à-vis the role of MoE was unclear, and the fact that it has not been in operation for a while means it is not necessary.

(d) County Education Board

Section 18 (a) and (b) of the Basic Education Act gives the CEB the function to oversee, in consultation with the County government, the operation and management of Youth Polytechnics, Pre-Primary education, including Early Childhood Care and education programmes in the County and coordinate and monitor education and training in the County on behalf of the National Government and the County government. This provision conflicts with Section 9, part 2 of the fourth schedule of the Constitution that mandates County governments to manage Pre-Primary education, Village Polytechnics, Home Craft Centres and Childcare facilities within their jurisdictions.

Further, a look at the composition of CEB in Section 20 of the Act shows there is no representation of NGAO. However, NGAO plays a critical role in ensuring matters such as infrastructure, security in schools, drug peddling and intake by learners are dealt with in the County.

(e) Education Standards and Quality Assurance Council (ESQAC)

Section 64 (1) of the Basic Education Act establishes the ESQAC to ensure standards and maintain quality in basic education institutions. Currently, the functions of this body are being performed by the Directorate of Quality Assurance in the State Department of Basic Education.

In Section 66 (2) of the Act, the powers of the Quality Assurance and Standards Officer (QASO) are limited to recommending the suspension of operations of an institution to CEB for a specified period until the basic standards are met. Section 66

(3) also provides for recommendations to be made to TSC and the CEB for necessary action. From the provisions, it is noted that a proper enforcement mechanism of the recommendations of QASO is lacking.

(f)   National Council for Nomadic Education in Kenya (NACONEK)

The body defined under Section 2 is National Council for Marginalised and Nomadic Education, but the body established under Section 94 of the Basic Education Act is the National Council for Nomadic Education. Therefore, Section 2 defines the National Council for Marginalised and Nomadic Education as the body established under Section 92. However, Section 92 of the Act provides for general penalties for offences committed under the Act. This inconsistency causes difficulty in the interpretation and enforcement of the Act.

The body is a semi-autonomous government agency in the Ministry of Education mandated to initiate the development, implementation and review of policies on all matters relating to education in the ASAL areas, pockets of poverty regions and informal urban settlements of Kenya. The body also carries out the school feeding programme to maintain children in school, but the same is not spelt in its functions.

(g)   Special Board of Adult and Continuing Education

The fifth schedule of the Act provides for the establishment of the Special Board of Adult and Continuing Education, whose functions include, *inter alia*, advising the Cabinet Secretary on any matter relating to adults and education, including the formulation of courses and syllabuses, the establishment of residential and non-residential institutions. It is, however, noted that the Board has never been put in place, and a directorate in the State Department of Basic Education is currently handling adult and continuing education.

(h)   Education Appeals Tribunal

The Education Appeals Tribunal (EAT) is established under Section 93 (1) of the Act to hear appeals from the decisions of the County Education Board. As the name implies, the Tribunal should hear all administrative issues in the Education Sector, including appeals from the decision of the TSC Review Panel, appeals on examination from KNEC decision, appeals on the decision of the Council of Universities and appeals from the decision of the TVET Board of Governors/Council.

(i)   Offices in the State Department for Basic Education

The Director General's (DG's) office has been established under Section 54 (3) of the Act, but its functions have not been spelt out. Within the State Department for Basic Education, the DG is the technical head.

Currently, the DG is deputised by eleven (11) directors at the head office who are in-charge of the following Directorates: Secondary Education, Primary Education, Early Childhood and Development Education, Quality Assurance and Standards, Special Needs Education, Teacher Education, Field Coordination and Co-Curricular Activities, Policy Partnerships and East Africa Affairs, Project Coordination and Delivery, School Audit Services, and Adult and Continuing Education. The structure does not align with the Competency-Based Curriculum.

The current link between the headquarters and the field offices is weak, decentralisation has not been provided to the zonal level, and there is duplication of offices such as that of the County Director of Education and County Director of Adult and Continuing Education. Yet, they all belong to the State Department for Basic Education.

(j)　Field Relations Between TSC and MoE

Both TSC and MoE have field offices to ensure the delivery of their services. While the MoE has a Regional Director of Education, County Directors of Education and Sub-County Directors of Education, TSC has similar officers at the County, Sub- County and Zonal levels.

The existence of the two offices at these levels has created two centres of command, which have sometimes led to conflict, thus hampering the effective management and execution of the Basic Education policies and programmes at the school level. For example, the PWPER was informed of cases where teachers are called to meetings by MoE then the same teachers are directed not to attend the meeting by TSC.

According to the stakeholders' views, there is poor coordination of education programmes at the Regional, County and Sub-County levels due to duplication of MoE and TSC structures and functions.

The following are verbatim excerpts:

> *Overlapping roles have created a competition which is currently affecting the management of basic education, more so in the field of education; we will wish to streamline and harmonise the role of the actors in education to ensure accountability and implementation of education programmes and assessment education outcomes* (RESP126).
>
> *They are two worlds apart. I get policies left and right, files from the Ministry of Education, and files from TSC, and they are colliding. As a target person, I have to comply with the policies from both sides and at that time, they are clashing. I ask myself, what should I do?* (RESP129).
>
> *Both TSC and MoE appoint Education Managers right from Sub County to Regional levels resulting in work overlaps and general confusion to the public. The duties being undertaken by, for instance, MoE and TSC can be handled by one officer* (RESP132).

(k)　System and Structure of Education in Kenya

Section 41 of the Basic Education Act provides for the following system and structure of education in Kenya:

(i)　Pre-Primary Education;

(ii)　Primary Education;

(iii)　Secondary Education;

(iv)　Middle-level institutions of basic education;

This does not conform to the education system under the CBC structure of 2-6-3-3.

(l)　Teacher Education and Training

Currently, different players, namely CEMASTEA and KEMI, implement In-Service Teacher Training. However, there is no evidence of a consultative development framework for its implementation by the players.

Pre-Service Teacher Training is offered by Teacher Training Colleges (TTCs). Currently, the governance of each TTCs is by a Board of Management; MoE handles the student admission process; financing of the colleges is under MoE; and the deployment of tutors is through TSC. However, there is no collaborative framework to inform and monitor these processes. In addition, the operations of TTCs without a clear legal framework and their management as distinct entities have led to a lack of uniformity in standards.

(m)　Categorisation of Schools

Section 43 (1) of the Basic Education Act categorises schools as public schools and private schools only. Regulation 79 of the Basic Education Regulation 2015 further classifies Basic Education institutions into:

(i)　　Gender of learners admitted;
(ii)　　National, Extra-County, County or Sub-County;
(iii)　　Boarding or day school;
(iv)　　Low-cost boarding school (in the case of Primary School); and
(v)　　Special Needs Education institutions.

The stakeholders raised concern about the current categorisation of schools which they deemed to be discriminatory in terms of distribution of resources and resulted in over-enrollment in certain schools and under-enrollment in others.

(n)　Conversion of a Basic Education Institution

Section 43 (2) of the Basic Education Act makes provision for a case where a public basic education institution may be converted to a private basic education institution, which should be done in consultation with the NEB and approval by the Cabinet Secretary. Such conversion from public to private status should be done away with, given the affordability of public schools in the promotion of Free and Compulsory Basic Education. Thus, the provision should only allow for a case where a school may be converted from private to public status and clarify that no public school shall be converted to private status.

(o)　National Education Management Information System

The Act refers to Education Management Information System (EMIS) and not NEMIS as it is currently known. It is noted that those above 18 years are not admissible in the system, and there have been instances of falsification of information.

(p)　Sponsor

Section 2 of the Act defines a "sponsor" as a person or institution making a significant contribution and impact on the academic, financial, infrastructural and spiritual development of an institution of basic education. It is noted that this definition

implies that one qualifies as a sponsor if they make a significant contribution in all the areas mentioned, thus leaving out the sponsors whose contribution may be in one area, e.g., financial. According to the stakeholders' views, the role of the sponsor is not clearly defined in the Basic Education Act.

(q) Chaplaincy/Imam Services

The Act does not make adequate provision in this regard. However, it is noted that Chaplaincy/ Imam services are important in schools in the promotion of value-based learning.

(r) Respect for Religious Rights

The Constitution and the Basic Education Act acknowledge Kenya's ethnic, cultural and religious diversity and the right of every Kenyan to freedom of conscience, religion, belief and opinion. However, It is noted that the violation of religious rights in schools has compounded effects on the maintenance of peace and tranquillity. In some cases, learners denied such rights share their frustrations through violent acts like burning dormitories while others drop out of school.

(s) Bursaries and Scholarships

Currently, the issuance of scholarships and bursaries in Basic Education is fragmented as different entities are doing the same, resulting in inequities with many needy learners not receiving support. In addition, there is no single legal framework and body to govern the sourcing and issuance of scholarships and bursaries in Basic Education.

(t) Special Needs Education

The Act has attempted to incorporate special needs in education in Kenya, as seen in Part VI of the Act. However, there is currently a proposal to expand the provision of the law through the enactment of a Special Needs Education Act to provide for the education of learners with special needs and the conduct of educational institutions. Therefore, for consistency in implementation and to avoid having several pieces of legislation addressing the same issue, the proposals in the Special Needs Education Bill, 2021 should be incorporated into the Basic Education Act.

Section 46 (1) of the Act provides that it shall be the duty of every CEB in consultation with the relevant County government to provide for Education Assessment and Resource Centres (EARCs), including a special needs service in identifying clinics in the County. It is, however, noted that these centres are not well managed and are marred with financial constraints. Therefore, more should be done to recruit EARC officers in every County and Sub-County.

KISE facilitates service provision for persons with special needs and disabilities through human capital development, research, functional assessment, rehabilitation, Inclusive education practices, technology and production of learning and assistive devices and technologies.

From the stakeholders' views, it was proposed that KISE be established as a Special Needs and Disabilities Authority through an Act of Parliament with a mandate to,

inter alia: advise the Government on matters related to special needs education and disability, implement and enforce government policies on special needs and disabilities; manage functional assessment services in the Country: manage EARC centres and staff; collate disability data from all EARC centres in the Country; develop and standardise tools used for functional assessment; and design and produce specialised learning resources, assistive devices and technologies.

In addition, there exists the Kenya Institute for the Blind (KIB), which was registered as a National Braille Resource Centre for the Blind Persons by the Ministry of Education in February 2004. The Institute runs a National Braille Library, the only one of its kind in the Country, which offers services to Primary, Secondary, and Tertiary institutions and the general public braille readers. It also trains blind persons in braille reading and writing skills. With the proposed expanded mandate of KISE, KIB should be brought under KISE, where it can operate as a branch of KISE.

With regards to EARCs, the Basic Education Act Section 46 (1) refers to centres as education assessment and research centres as opposed to education assessment and resource centres.

(u)   School Equipment Production Unit (SEPU)

SEPU is a government agency under the Ministry of Education with a sole mandate of designing, manufacturing, supplying, and distributing science materials and apparatus to educational institutions in Kenya. The agency is incorporated under the Companies Act (No. 17 of 2015) as a company limited by guarantee and having no share capital. However, the body is faced with inadequate revenue allocation and a lack of modern machines in the production unit, thus hampering the provision of efficient and quality services. Its mandate is also limited to the supply and distribution of science materials and apparatus, and does not include learning and instruction materials.

7.4.3   Kenya Institute of Curriculum Development Act

Section 3 (4) of the Act provides that the headquarters of the Institute shall be in Nairobi, but the Institute may devolve its functions to the Counties progressively. However, the curriculum is a function of the national Government; thus, the use of the word 'devolve' should be replaced with 'decentralise'.

Section 4 of the Act provides for the functions of the Institute, which have been extended to tertiary education and training as stated in parts (c), (d) (viii), (g) and (l). However, there exists another body known as TVET-CDACC, which develops a curriculum in technical and vocational education and training; thus, the inclusion of the mandate of the Institute to tertiary education and training creates duplication of roles.

Section 4 (h) of the Act provides that the Institute shall collaborate with other individuals and institutions in organising and conducting professional development programmes for teachers, teacher trainers, quality assurance and standards officers. However, the Institute's mandate should be restricted to matters of curriculum, but the Institute can collaborate with other agencies to provide support in curriculum development.

Section 4 (n) of the Act provides that the Institute can receive, consider, develop and review curriculum proposals. This should be specific to basic education.

Section 5 (2) of the Act provides for the composition of the Council. It is noted that part (b) makes reference to Principal Secretary responsible for education and training; part (c) makes reference to Principal Secretary to the Treasury; and part (g) makes reference to two members from the private sector. Part (b) and (c) should be amended to refer to Principal Secretary responsible for basic education or his/her representative and Principal Secretary responsible for National Treasury or his/her representative. With regards to part (g), representation from the private sector should include representation from private Universities. Also, with the restructuring of Teacher Training, there should be representation from the Teachers' Training Colleges. The Act also includes a representative of the Kenya Primary School Head Teachers Association and the Kenya Secondary School Head Teachers Association. The existence of these bodies in the Council does not enhance governance as they are already represented by their employer and the Ministry in the governance organ.

Section 14 of the Act provides that there shall be a Director of the Institute who shall be appointed by the Council through a competitive, fair and open process. The Section also provides that the Director shall be the Chief Executive Officer. However, it is noted that reference to the Head of Management of the Institute as Director limits career progression for the other officers in the Institute. Therefore, using the Chief Executive Officer (CEO) to refer to the Head of Management of the Institute will create room for the position of Directors, who will work directly under the CEO.

Section 17 of the KICD Act provides for the Academic Committee and Panels, and in Section 18, the composition and functions of the Academic Committee are stated. A look at the functions of the Academic Committee reveals a duplicate of the functions of the Council's Curriculum Technical Committee. In Section 4 (d), the Council is mandated to keep under constant review the curricula and curriculum support materials at different levels of education and training, and in Section 18 (4) (a), the Academic Committee is mandated to keep under constant review the curricula and curriculum support materials at different levels of education and training. This is a duplicated role. Also, some of the committee members, e.g., the MoE, KNEC, TSC and public Universities, are already represented in the Council.

7.4.4   Kenya National Examinations Council Act

Section 3 (1) of the Act provides for the establishment of the "Kenya National Examination Council"; however, the body currently conducts assessments under CBC as opposed to examinations.

Section 4 (1) of the Act provides for the composition of the Council. However, for clarity, representation should be well stated, i.e., Principal Secretary Basic Education or his/her representative; Principal Secretary National Treasury or his/her representative; CEO KICD or his/her representative; and Secretary TSC or his/her representative. This will enable these offices to have alternatives to represent them in the Council. In addition, representation from other key stakeholders should also be included, i.e., the COG Representative; and three other persons to represent Faith-

Based Organisations (FBOs), marginalised and private sector, one of who shall be a person with a disability.

Section 10 (1) (a) of the Act provides that the Council shall set and maintain examination standards, conduct public academic, technical and other national examinations within Kenya at Basic and Tertiary levels. It is noted that the mandate extends to tertiary levels, yet another body known as TVET-CDACC assesses technical and vocational education and training. Therefore, the inclusion of the mandate of the Council to Tertiary levels creates duplication of roles.

Section 7 of the KNEC Act provides for the term of office of the chairperson and members who shall serve for a term of four years and shall be eligible for re-appointment for one further term. However, Mwongozo, which is the Code of Governance for State Corporations, guides that the tenure of a Board member should not exceed a cumulative term of six years or two terms of three years each. There should be, therefore, conformity with the policy in this regard.

The Kenya National Examination Council (Amendment) Act, 2Ol7 establishes the National Examination Appeals Tribunal in Section 40B of the Act. However, the Tribunal has only handled one case since its establishment; therefore, there is no need for it to exist and operate separately from the Education Appeals Tribunal.

7.4.5   Teachers Service Commission Act

(a)   Duplication of Quality Assurance function between MoE and TSC

Article 237 (3) of the Constitution mandates TSC to "review the standards of education and training of persons entering the teaching service". Under Section 11(c) of the Act, TSC is mandated to "ensure that teachers comply with the teaching standards set by the Commission", while under Section 11 (f), TSC is required to "monitor the conduct and performance of teachers in the teaching service". In implementing both Sections 11 (c) & (f), the Commission developed the TSC Code of Regulations, 2015 (Development, Review and Maintenance of Entry and Performance standards), which provides under Regulation 44 "that the Commission may for purposes of maintaining the performance standards, designate a Quality Assurance and Standards Officer at the County and Sub County level".

From the foregoing, it is apparent that the function of the TSC, as enshrined in the Constitution, is misinterpreted in the TSC Act and TSC Code of Regulations for teachers, with the TSC having established a Directorate of Quality Assurance and Standards at the headquarters with offices across the entire Country thus overlapping with the responsibilities of the Directorate of Quality Assurance and Standards at the Ministry of Education.

Furthermore, Section 35 (1) of the TSC Act provides that, "the Commission shall take all necessary steps to ensure that persons in the teaching service comply with the teaching standards prescribed by the Commission under this Act". However, this conflicts with the function of the National Government as prescribed under Section 15 Part 1 of the Fourth Schedule of the Constitution.

In a letter dated 10th September 2014, the then Commission for the Implementation of the Constitution (CIC) concluded that Section 35 (1) of the TSC Act, which required the TSC to take all necessary steps to ensure that persons in the teaching service comply with the teaching standards prescribed by TSC under the Act is unconstitutional. CIC pointed out that 'compliance with standards is the responsibility of the national government' and, therefore, whether a teacher displays the standards at work is the Primary work of the national Government. In a letter dated 19th December 2014 addressed to the Cabinet Secretary of Education, the Attorney General concurred with CIC.

(b)   Pre-Service and In-Service Teacher Training

Section 35 (2) of the Act provides that the Commission shall require every registered teacher to undertake career progression and professional development programmes as may be prescribed by regulations made under the Act.

On the other hand, the fourth schedule of the Constitution mandates the national Government to set education policy, standards, and curricula for all levels of education and training. This means that the national Government is required to develop programmes and curricula for teacher education and training. Thus, Section 35 (2) of the TSC Act is unconstitutional on the basis that Article 237 does not mandate TSC to conduct any form of capacity building.

(c)   Deployment, Transfer and Promotion of Teachers

Article 237 (2) (c) & (d) of the Constitution mandates TSC to deploy, transfer and promote teachers. On its part, MoE runs the schools through the BoMs and the day-to-day activities of the school are undertaken by the headteacher in the case of a Primary school and a principal in the case of a Secondary school on behalf of MoE.

The teachers are employees of TSC, but they run and implement the curriculum developed by MoE through KICD. Thus, though the teachers are employees of TSC, they work for MoE which is expected to supervise and quality assure the teacher delivery of the curriculum. However, these teachers are deployed, transferred and promoted without consultation with MoE.

(d)   Accountability for Heads Teachers and Principals

Currently, head teachers and principals are employed and deployed by TSC to manage basic education institutions but are not accountable to MoE, the owner and financier of the schools.

The roles and responsibilities of a Principal and Headteacher include:

(i)   Organisation and management of approved school curriculum;
(ii)   Management and control of school finances and stores;
(iii)   Management and motivation of human resources in the school;
(iv)   Secretary of the school BOM and PTA;
(v)   Management and maintenance of the school plant equipment;
(vi)   Teaching subjects of specialisation.

There is currently no clear agency relationship between MoE and the Headteachers

and Principals. For example, where there has been a case of mismanagement of funds or resources by a Headteacher or Principal, the Principal Secretary State Department of Basic Education at the MoE cannot hold the head teacher or principal to account, nor is he/she involved in their discipline. Similarly, TSC does not have the mandate to supervise financial management at the schools.

(e)   Disqualification of a Chairperson and Members of the Commission

Section 8 (1) of the Act provides that within fourteen days of the commencement of this Act, or whenever a vacancy arises in the Commission, the President, in consultation with the Prime Minister shall by notice in the Gazette, declare a vacancy and constitute a selection panel for the purpose of selecting suitable candidates for appointment as the chairperson or member of the Commission. The phrase "within fourteen days of the commencement of this Act, has been overtaken by events, and the post of Prime Minister has since been abolished.

Section 8 (5) of the Act provides that the selection panel shall, within seven days of convening, invite applications from persons who qualify for nomination and appointment as chairperson or member of the Commission by advertisement in at least two daily newspapers of national circulation. Such should include advertisements on the TSC website with the current wide use of technology.

Section 8 (17) of the TSC Act provides that until after the first general election under the Constitution, the President shall, in nominating persons for appointment as chairperson or member of the Commission, act in consultation with the Prime Minister. The post of Prime Minister has since been abolished.

Section 8 (18) provides that despite the foregoing provisions of this Section, the President, in consultation with the Prime Minister, may, by notice in the Gazette, extend the period specified in respect of any matter under this Section by a period not exceeding twenty-one days. The post of Prime Minister has since been abolished.

(f)   Conduct of the Affairs of the Commission

Section 15 (3) of the Act provides that the Commission may invite any person to attend any of its meetings and to participate in its deliberations, but such a person shall have no right to vote at the meeting.

Clause 2 of the Second Schedule of the Act provides that the quorum of a meeting of the Commission shall be one-half of the members. This is not in accordance with the Mwongozo Code of Conduct for State Corporations, a quorum of a meeting which should be two-thirds of the members.

Clause 5 of the Second Schedule of the Act provides for instances where there may be conflict of interest. However, the provision is too detailed and is not well understood.

(g)   Secretary of the Commission

Section 16 (5) & (6) of the Act provides for the duties and responsibilities of the Secretary. However, the Section described is wordy and confusing as some of the duties and responsibilities fall on other persons, e.g., SRC.

Section 17 (2) of the TSC Act provides for the procedure for the removal of the Secretary to the Commission. However, the terms and conditions indicated therein are not clear.

(h)   Appointment of TSC Staff

Section 16 (6) of the TSC Act provides for the appointment of the members of staff taking into account: (a) persons with disabilities; and (b) regional and ethnic diversity of the people of Kenya. However, this is not all-inclusive as provided for in the Constitution.

(i)   The Register

Section 27 (e) of the Act provides that the Commission shall not register a person as a teacher if such person is engaged in any activities which, in the opinion of the Commission, are prejudicial to the peace, good order or good Government in Kenya. The provision is broad and subject to abuse.

Section 30 (1) (c) & (f) of the Act provides that the Commission may, after inquiry, cause to be removed from the register the name of any person who has been convicted of a sexual offence or an offence against a pupil or student; and suffers from such physical or mental illness or infirmity which renders the person incapable of performing the duties of a teacher. The physical or mental illness or infirmity should be in the opinion of a registered medical practitioner with the expertise to make such a determination.

Section 30 (3) of the Act provides that subject to the provisions of the Act, the removal of a teacher's name from the register shall be notified by the Commission to the person by registered mail addressed to his or her last known address. The option of use of electronic means is not provided for in the Act.

Section 31 (1) (a) of the Act provides that where the name of any person has been removed from the register, the Commission may, either of its own motion or on the application of the concerned teacher made in the prescribed manner, and in either case after observing due process, direct that (a) the removal of that teacher's name from the register be confirmed.

Section 31 (2) states that an application under Sub-Section (1) may only be made after the expiry of a period of eighteen months from the date of removal of the name from the register. The period of eighteen months is unreasonable and unjustifiable.

Section 32 of the Act provides for the publication of all registered teachers. TSC should thus be registered with the Office of the Data Commissioner as a data controller subject to the Data Protection Act.

(j)   Discipline of Registered Teachers

Section 33 (1) of the Act provides that the Commission may, subject to the regulations made under the Act, take disciplinary action against any person registered as a teacher under the Act. The phrase "subject to the regulations made under the Act" means that a substantive law is subject to a subsidiary legislation.

Section 34 (3) (j) of the Act provides that the Commission, after interdicting a teacher,

may take disciplinary actions against a registered teacher and undertake any other lawful action as it may consider appropriate. The use of the phrase "undertake" is erroneous.

The Third Schedule of the Act and TSC Code of Conduct and Ethics for Teachers Regulations 2015 on Disciplinary Offences provides for the list of offences under the Act. However, some of the offences listed contradict other laws, such as the penal code, and other offences as prescribed in other laws, e.g. the Sexual Offences Act and the Children's Act, have not been included.

(k)   Management of Information

Section 42 (5) of the Act provides that the right of access to information under Article 35 of the Constitution shall be limited to the nature and extent specified under that Section. The Constitution already provides for limits on the right of access to information.

(l)   Appeal of the Decision of TSC

Regulation 151 (1) of the Code of Regulation for teachers provides that the discipline process will be administered at the Commission's headquarters and at the county level, and Regulation 156 (1) there is established an ad-hoc Committee of the Commission known as the Teachers Service Review Committee which shall consider and determine reviews arising from the discipline process under regulations. Therefore, with the proposal that the Education Appeals Tribunal hear all appeals in the education sector, the Act should provide that appeals of the decision of TSC be made at the Education Appeals Tribunal.

7.4.6   Kenya Literature Bureau Act

(a)   Composition of the Board

Section 5 (1) of the Act provides for the composition of the Board of management as follows:

(i)   a chairman appointed by the President;

(ii)   the Permanent Secretary of the Ministry for the time being responsible for Higher Education;

(iii)   the Permanent Secretary of the Ministry for the time being responsible for Finance or his representative;

(iv)   the Permanent Secretary of the Ministry for the time being responsible for Social Services or his representative;

(v)   the Secretary of the National Council for Science and Technology or his representative;

(vi)   a representative from the University of Nairobi;

(vii)   the Managing Director of the Bureau;

(viii) not less than four nor more than six members appointed by the Minister for a period of three years.

From the foregoing, it is noted as follows:

(i) According to Executive Order No. 1 of 2023, KLB falls under the State Department for Basic Education; however, the Principal Secretary represented in the Board is the one responsible for Higher Education.

(ii) According to the Constitution, the title Permanent Secretary has been replaced with the title Principal Secretary.

(iii) The position of Permanent Secretary of the Ministry for the time being responsible for Social Services or his representative does not exist.

(iv) The use of the phrase chairman means the position can only be occupied by a man.

(v) The total number of Board members is thirteen (13), which exceeds the recommended number of nine (9).

(vi) The National Council for Science and Technology has since been transformed into the National Commission for Science, Technology and Innovation (NACOSTI). But, again, the Bureau falls under Basic Education and not Higher Education, where NACOSTI falls.

(vii) From the University there is only representation from the University of Nairobi, yet there are currently 78 Universities in Kenya.

(viii) The Act does not provide for qualifications of the members appointed by the Minister in paragraph (h).

(b) Tenure of Members of the Board

Section 5 (2) of the Act provides that the Chairman shall hold office for a period of three years but shall be eligible for re-appointment. This provision is not clear as it does not specify that such re-appointment shall only be once. Further, the Act does not provide for the term limits of the other members of the Board.

(c) A quorum of the Board Meeting

Section 5 (6) of the Act provides that the quorum necessary for the transaction of any business of the Board shall be seven members, and all acts, matters or things authorised or required to be done by the Board shall be affected by a resolution passed by a simple majority of the members present and voting at the meeting at which there is a quorum. This provision should be aligned with Mwongozo, which guides that the quorum for Board meetings shall be five members where the total Board membership is eight to nine and four where the total membership is seven and below.

(d) The Managing Director and the Secretary

Section 8 of the Act provides for the Managing Director and the Secretary, who shall be responsible for the execution of the policy of the Bureau and for the control of its day-to-day business. There is a need to harmonise the title of this office to the Chief Executive Office for consistency with other semi-autonomous agencies in the Ministry of Education. The term of the Managing Director is also not specified.

(e)   Committees of the Board

Section 9 of the Act provides that the Board shall establish a publishing fund management committee and may, from time to time, establish any other committee, whether of its members or otherwise, as it may think necessary or desirable. This provision should be aligned to *Mwongozo, the Code of Conduct for State Corporations*, which guides that the Board should establish an Audit Committee and a maximum of three other committees to discharge the following functions: Governance, technical matters, risk, strategy, compliance, human resources and finance.

(f)   Exemption from Stamp Duty

Section 14 of the Act provides that no duty shall be chargeable under the Stamp Duty Act (Cap. 480) in respect of any instrument executed by or on behalf of or in favour of the Bureau in cases where, but for this Section, the Bureau would be liable to pay such duty. The Stamp Duty Act already provides for cases where an exemption from Stamp Duty applies.

7.5   Conclusion and Recommendations

7.5.1   Conclusion

It is important that the laws governing the Basic Education sector are not only complementary to one another but also in line with the Constitution and the best international and regional practices for proper governance.

However, the discussion herein above points to an inconsistency in the framing of some of the laws, duplication of functions and disputes over mandates and ambiguities. The discussion has also brought out the challenge of inefficiencies in the administration of the Education sector. There is a resultant waste of public resources when different agencies or departments are allocated funds to carry out the same functions but do so without coordination.

In addition to legal gaps and inconsistencies, the sub-sector also faces governance challenges. Some key ones include the duplication of roles and the lack of coordination between MoE and TSC. Thus, there is a need for the two institutions to work interdependently and, to this extent, recognise MoE as the organ of the executive in the education sector. On the other hand, MoE has to recognise the establishment of the TSC as a constitutional body.

It is important to strengthen the operations and performance of MoE so that it takes its leadership role and operates as one unified agency. SAGAs cannot run the sector without effective policy leadership from the centre. The directorates of the MoE have to enhance their delivery, improve their linkages and focus on ensuring that the constitutional mandate of quality education is delivered across the Country. This requires less focus on creating institutions and their powers and more focus on delivering measurable outputs. The current governance approach that focuses on a silo mentality and a perfunctory reading of mandates only results in power plays and compromises service delivery.

7.5.2 Recommendations on Laws Governing Basic Education

1. Repeal Early Childhood Education Act and transfer the provisions on ECE to the Basic Education Act. This will align with the legal definition of basic education as starting from Pre-Primary to Senior School. In addition the amendments necessary to provide for governance and management of independently-run public ECE centres.

2. MoE, COG and TSC to develop an intergovernmental agreement for hiring and remuneration of Pre-Primary teachers. This will ensure harmonisation of pay for all Pre- Primary teachers and that the TSC manages the payroll based on an allocation from Parliament while the Counties hire the Pre-Primary teachers.

3. Amend Section 56 of the Basic Education Act to revise the composition of the school's BOMs as follows:

    (a)   For Senior School, there shall be 10 members as follows:

        (i)   The chairperson of the PTA;
        (ii)   Three representatives of the sponsor(s) of the school, where applicable;
        (iii) One person with disability;
        (iv)   Two persons with relevant professional qualifications;
        (v)   Three ex-officio members;
            •   One nominee of NGAO;
            •   The SCDE or their nominee who shall be an employee of MoE.
            •   The head of the institution shall be the Secretary of the BOM.

    (b)   For comprehensive school, there shall be 13 members as follows:

        (i)   Three persons from among the parents in the school, one of whom shall be the chairperson of the PTA;
        (ii)   Three representatives of the sponsor(s) of the school, where applicable;
        (iii) One person with disability;
        (iv)   Two persons with relevant professional qualifications;
        (v)   Four ex-officio members:
            •   One nominee of NGAO;
            •   The SCDE or their nominee who shall be an employee of MoE;
            •   Ward administrator or their nominee who shall be an employee of the County; and
            •   The head of the institution who shall be the Secretary of the BoM.

    (c)   Delete Section 56 (3) of the Basic Education Act to remove the option of co-option and delete Section 62, which provides for the Secretary of the Board. In the first inaugural meeting, the members shall elect their chair. A transitional clause be provided for the effective dates of the BoMs, to take care of the current office holders.

4. Insert a new Section 56A to provide that in a comprehensive school, the head of the institution shall be referred to as the Principal with a Deputy Principal heading each of the levels, i.e. Pre-Primary, Primary and Junior School.

5. Amend Section 20 (1) (a) of the Basic Education Act to delete an educationist of at least five years standing based in the County as the chair of CEB and replace with the County Commissioner who shall be the chair. In addition, delete the provisions of Part II of the Basic Education Act providing for the establishment and operations of the National Education Board since it is moribund and duplicates the roles of the Cabinet Secretary of Education.

6. Amend Section 64 (1) of the Basic Education Act to delete ESQAC and create the Directorate of Quality Assurance and Standards (DQAS). Provide for the functions of the Directorate in the Act, including enforcement mechanisms.

7. Change the name of the National Council for Nomadic Education to National Council for Education in Marginalised Communities and include the mandate of managing school feeding programme and low cost boarding Primary schools.

8. Delete Section 11 (c), (f) and Section 35 (1) of the TSC Act and related provisions in the TSC regulations regarding the Quality Assurance function.

9. Delete Section 35 (2) of the TSC Act and the related provisions in the TSC regulations. Pre-Service and in-service teacher training is the responsibility of the MoE.

10. Deployment, transfer and promotion of teachers by TSC should be done in consultation with MoE. Heads of basic education institutions who are employed by TSC to be agents of and accountable to MoE in the management of those institutions.

11. The management and running of schools is the responsibility of the national Government through MoE. TSC on the other hand has responsibility over teachers as their employer. Consequently, in the discharge of this respective mandates in a manner that ensures seamless delivery of all learning activities, MoE and TSC to develop structured consultation mechanisms. In addition, TSC to focus on the human resource function.

12. Restructure the State Department for Basic Education directorates for effective and efficient delivery of Basic Education services.

13. Amend the Basic Education Act, as follows:

    (i) Section 54 (3) by inserting a new Sub-Section to provide for the functions of the Director General and include quality assurance and standards and adult and continuing education as part of its functions and by inserting a new Section to provide for the office of the RDE, its functions and reporting structure.

    (ii) Section 54 (7) to include quality assurance and standards and adult and continuing education as functions of CDE and provide the reporting structure.

    (iii) by inserting a new Section to provide for the office of the SCDE, its functions and reporting structure. Provide in the Basic Education

Regulations that the State Department for Basic Education shall have offices all the way to the zonal level.

14. Develop and enact a Teacher Education and Training Bill as per **Attachment 1 in Appendix 7.1** to establish the Kenya Teachers Training College (KeTTC) and Kenya School of Teacher and Education Management (KeSTEM) pursuant to recommendations in Chapter 4 of this Report.

15. Amend Section 41 of the Basic Education Act to provide for:

   (a)   System of basic education as follows:

       (i)   Pre-Primary Education;

       (ii)   Primary Education;

       (iii)   Junior School;

       (iv)   Senior School.

   (b)   The structure of 2-6-3-3 for basic education.

   (c)   Comprehensive school system covering Pre-Primary to Junior school.

16. Amend Regulation 79 (b) of the Basic Education Regulations 2015 to delete the classification of schools as National, Extra-county, County or Sub-county and replace the provision with the following classification:

   (i)   Day.

   (ii)   Boarding.

   (iii)   Mixed (day/boarding).

   (iv)   Mixed (boys/girls).

   (v)   According to Pathways at Senior School.

17. In the Basic Education Act replace the Education and Management System (EMIS) with Kenya Education Information Management System (KEMIS). Provide that KEMIS captures information of all learners and learning institutions in basic education institutions and where a learner is not registrable due to reasons which may include: Lack of national identity card or being above 18 years, the CDE shall handle each case on its merit and where the reasons given are merited register the learner on KEMIS. General penalties for falsification of data are to be provided for in the regulations.

18. Where applicable, the provisions of the SNE Bill 2021 be incorporated in the Basic Education Act, and part VI on Special Needs Education in the Basic Education Act be amended to:

   (i)   Provide for the establishment of KISE to train SNE teachers;

   (ii)   Expand the mandate of KISE to include management of EARCs and provision of specialised learning resources, assistive devices and adapted technologies.

   (iii)   The Kenya Institute for the Blind to be established as a campus of KISE.

   (iv)   Provide a framework for collaboration between KISE, CEB and county governments in the operations of EARCs.

19. Coordinate the management of bursaries and scholarships under one legal framework called Management of Scholarship and Bursaries in Basic Education Bill **Attachment 2 Appendix 7.1:** Outline of the proposed Bill). The new law shall include: coordinated management of bursaries and scholarships to be managed by Jomo Kenyatta Foundation to be recast as *Kenya Basic Education Bursaries and Scholarships Council*; a central database that captures all bursaries and scholarships; outlaw provision of bursaries and scholarships from two sources; outlaw remission of excess bursary and scholarships funds to awardees; needy students to be identified through the schools, wards, sub-county and County; and involve religious leaders, school heads and elected leaders. The Council is to be established as a semi-autonomous government agency within the State Department for Basic Education, and it shall be responsible for the following:

(i) Administering the bursaries and scholarships

(ii) Providing the criteria for bursaries and scholarships;

(iii) Processing the identification of needs;

(iv) Keeping a database of all needy students.

(v) Maintaining a database of institutions that provide bursaries and scholarships

(vi) Mobilising resources from the private sector to complement government allocation.

(vii) Collaborating with other agencies that provide bursaries and scholarships.

(viii) Publish and publicize the list of awardees to avoid double allocations.

(ix) Reporting annually to the national and County governments.

The composition of the Council shall include relevant government stakeholders, namely: the State Department for Basic Education; KISE; KLB; National Treasury; NGCDF; and other private sector players such as the Kenya Bankers Association (KBA) and religious groups and atleast two independent members.

20. Delete the provisions of Section 93 on the education appeals tribunal and establish the same in a dedicated law called the The Education Appeals Tribunal bill **Attachment 3 Appendix 7.1** In the new law, expand the mandate of the tribunal to hear all administrative appeals in the education sector. Tribunal shall comprise:

(i) Chairperson of the Tribunal to be appointed by the Judicial Service Commission;

(ii) Representative of Kenya Private Sector Alliance;

(iii) Representative of COG;

(iv) Representative of Faith-Based Organisations;

(v) Five persons with a background in Law, Education and Finance, one of whom shall be a person with a disability, competitively recruited.

21. Restructure School Equipment Production Unit to School Learning and Instruction Materials Centre (SLIMC). Provide for its establishment in the Basic Education

Act and expand its mandate to include the procurement and distribution of learning and instruction materials. Thus, the current arrangement where books are procured for schools by KICD be discontinued, and the function taken to the restructured SEPU. The Centre shall be a semi-autonomous government agency within the State Department of Basic Education, with the following membership: State Department for Basic Education; KICD; KNEC; Kenya Teacher Training College; National Treasury; and Private Schools Association.

22. In the KICD Act, amend Section 4 to delete the phrases "tertiary education & training" and "technical and vocational education and training" at Sub-Sections (c), (d) (vii), (g) and (l) and replace with teacher education and training. Amend Section 5 (2) to include the CEO of the Kenya Teacher Training College or his/her representative and the CEO of KISE or his/her representative in the membership of the governing council. Amend Section 14 to replace the "Director of the Institute" with CEO, and the same be used throughout the Act and amend Sections 17 and 18 to remove Academic Committee.

23. In the KLB Act:

   (a)   Review the composition of the Board of Management by amending Section 5 (1) of the Act as follows:

      (i)   A chairperson appointed by the President.

      (ii)   The Principal Secretary of the Ministry for the time being responsible for Basic Education or his/her representative.

      (iii)   The Principal Secretary of the Ministry for the time being responsible for Finance or his/her representative.

      (iv)   The CEO for the Scholarship and Bursaries in Basic Education Council.

      (v)   Four other members appointed by Cabinet Secretary responsible for Education with competencies in Education, Finance, Human Resources and Law.

      (vi)   The CEO of the Kenya Literature Bureau (KLB).

   (b)   Amend Section 5 (2) of the Act to provide that the term limits of the members of the Board shall not exceed a cumulative term of six years or a term of three (3) years and be eligible for re-appointment for one further term.

   (c)   Amend Section 5 (6) of the Act to provide that the quorum of the Board shall be two-thirds of the members.

   (d)   Replace the title Managing Director with Chief Executive Officer by amending Section 8 of the Act and anywhere else where the title is used in the Act. The Act should also provide for a term of the CEO to be three (3) years and eligible for re-appointment for one further term.

   (e)   Amend Section 9 of the Act to provide that the Board shall establish committees in the discharge of its function.

   (f)   Delete Section 14 of the Act on the exemption from stamp duty.

23. In the KNEC Act, amend:

    (a) The title and Section 3 (1) to replace the phrase "Kenya National Examinations Council" with "Kenya National Assessment Council" and everywhere in the Act where the name of the Council appears as such.

    (b) Section 7 to provide that the chairperson and members of the Council shall serve for a term of three (3) years and be eligible for re-appointment for one further term.

    (c) Section 10 (1) (a) by deleting the phrase "tertiary" and replace with teacher education and training.

    (d) Delete Section 40B, which provides for the establishment of the National Examination Appeals Tribunal.

See Appendix 7.1 *for the detailed amendments.*

Education Commission for the East African Protectorate, 1919

Phelps-Stokes Commission, 1924

The Annual Report of 1934 on African Education Paper 21

De-la-Warr Commission on Higher Education in East Africa, 1937

Beecher Education Committee of 1949

CHAPTER EIGHT

TECHNICAL AND VOCATIONAL EDUCATION AND TRAINING

8.1   Introduction

Technical and Vocational Education and Training (TVET) concerns the study of technologies and related sciences that includes the acquisition of practical skills, attitudes and knowledge relating to occupations in various sectors of economic and social life (UNESCO, 2016; Tripney & Hombrados, 2013). TVET also involves the development of skills and opportunities aligned to national and local contexts.

TVET is globally recognised as an important form of training because it provides learners with skills to build their individual capabilities, which they use for self-development and to engage in productive activities. Indeed, Sustainable Development Goal 4 (SDG) on equitable quality education Target 4.3 requires that by 2030, countries achieve equal access and quality technical vocational education and training for all women and men. Similarly, the African Union (AU) Agenda 2063 has ratified the continental strategy for Technical and Vocational Education and Training to foster youth employment and entrepreneurship.

In Kenya, TVET is coordinated by the State Department for TVET under the Ministry of Education. TVET has gained increased attention and popularity and is prioritised under the Kenya Vision 2030 as a form of education and training that would provide the youth with the necessary skills required for the job market and economic development (GoK, 2008).

Kenya has ratified both the SDGs and Africa Agenda 2063. Furthermore, the Constitution of Kenya, Article 55 (2), provides youth the right to access relevant education and training. Schedule Four also provides for the establishment and management of village polytechnics (currently VTCs) by the 47 county governments. In this regard, Kenya is investing in TVET to impart relevant skills to Kenyan youth.

This Chapter covers the following ToRs:

2 (a) To review and recommend a governance and financing framework for TVET training and development.

2 (c) To make recommendations for streamlining continuity in TVET University education transition.

2 (b) To recommend a framework for Open, Distance and E-learning (ODEL).

This Chapter discusses findings on these ToRs and identifies gaps that need to be addressed to improve the potential of TVET in Kenya.

8.2   Global and Regional Context

8.2.1   Governance in TVET

Across the world, TVET has been given greater prominence as a means of equipping youths and adults with relevant skills for employment, decent jobs and entrepreneurship. Importantly, technological changes and the rapid automation of many occupations require that TVET policies and systems continually adapt to the changing contexts. Moreover, these changes mean that high-quality skills are continuously required to respond to new labour markets. All this means that the governance of TVET is well coordinated and that there is meaningful involvement and constructive relationship between the public and private sectors, particularly in the industry where the TVET skills are deployed. Nonetheless, ensuring good governance in TVET is a difficult task as it is a complex policy area located at the intersection of education, training, and social-economic and labour market policies (ETF, 2019).

Vocational Training (VT) is usually practical-oriented and provided by vocational skills training facilities, polytechnics, and various other technical training institutions. Most of the funding, delivery of programs, and implementation process comes from employers rather than the government (UNESCO-UNEVOC, 2018). This means that interlinkages with the industry are crucial for TVET to produce graduates suited for the relevant market needs. Because of this, countries pursue pathways that serve their social-economic and market needs. For instance, in South Korea, high schools provide a vocational pathway for students not interested in pursuing a general path. In addition, Junior Vocational Colleges, Open Universities, and Lifelong Education institutions offer vocational education. This ensures a seamless transition process in the education system of South Korea.

There are countries where governance and financing of TVET is under one body to enhance efficiency in the achievement of objectives. These include Malaysia, Thailand and the Philippines. In some cases, the governance of TVET is under public-private partnerships. The Centrality of TVET linkage with the industry is worth noting. The partnership with the industry ensures that the content and skills imparted to trainees are relevant and required by the industry. In other words, nurturing linkages between training providers and industry is essential for the provision of adequate and relevant skills development (Misko, 2001). The sector provides a real workplace and ideal Work-Based Learning (WBL) conditions.

8.2.2   Streamlining Continuity in TVET and University Education Transition

The transition pathway from TVET to higher education enables trainees to progress from one qualification to another. This is usually through admission, credit transfer, or both in a defined qualification pathway (AQF, 2013). In many of these countries, those in TVET do not face hindrances in furthering their careers in education. Governments generally create flexible transition opportunities between TVET and higher education (UNESCO, 2016). In the US, for instance, there are agreements between TVET institutions and Universities to support this transition. In the UK, initiatives such as the Credit Accumulation and Transfer Scheme (CATS) allow students to accumulate credits for individual modules or units of study completed at a TVET institution and transfer them to a University degree program. In Malaysia, students who complete a

certain amount of TVET coursework can transfer credits to a University. This reduces the time and money required to complete a University degree.

Recognition of Prior Learning (RPL) is used internationally as a tool for lifelong learning, access to higher education, credit towards a qualification and recognition of knowledge, skills and competencies to enhance economic, environmental, social and personal development. RPL offers alternative and flexible career pathways that support the development of a relevantly skilled workforce leading to increased employability, self-esteem and mobility. RPL has been used as a tool to promote labour force development, offer recognition, certification and progression to higher education and as means of identifying skills gaps.

RPL has been successful in various countries, including Canada, Australia, Mauritius, South Africa and Tanzania. This is done through recognition of life-long learning and beyond formalised traditional settings such as non-academic fields, development cooperation, and experiential-based learning in workplaces (Maurer & Morshed, 2022; Nduna, 2017). A majority of the labour force have TVET skills and competencies acquired through experience, mainly in the informal sector but are not recognised as a qualification.

8.2.3   Open, Distance and e-Learning (ODeL) in TVET

Open, Distance and e-Learning (ODeL) is a mode of providing flexible learning opportunities by overcoming the separation of teacher and learner using various media, including print, electronic, online, and occasional interactive face-to-face meetings (Simonson & Berg, 2016). Learning in ODeL requires a combination of methods and media, including broadcasting, telecasting, narrowcasting, web, computer-based learning, e-learning, virtual learning, print, seminars and direct interaction and providing flexibility to learners to exercise choice in pace, place and mode of study. In this mode, a deliberate effort is put towards Learner Support Services to deliver teaching-learning experiences, including practical or work experiences.

The Sustainable Development Goal (SDG), No. 9, recognises the need to develop knowledge societies where everyone has opportunities to learn and engage with others. It also highlights the need for investing in ICTs. The 2030 Agenda for SDGs further calls on States to "build resilient infrastructure, promote inclusive and sustainable industrialisation and foster innovation." Furthermore, the Africa Agenda, 2063 and the Continental Education Strategy for Africa (CESA), 2016-2025, emphasise the use of ICT as an important tool in the achievement of quality education. In addition, CESA strategic objective 3 emphasises harnessing the capacity of ICT to improve access, quality and management of education and training systems, issues that this policy seeks to address (MoE, 2021).

Since the demand for TVET has been increasing over the years, ODeL has the potential for higher reach and scope. In addition, trainees in remote areas and the working class can use ODeL to further their studies due to its flexibility.

8.3   National Context of TVET

8.3.1   TVET Governance in Kenya

TVET in Kenya has origins in the colonial period, whose goal was to produce semi-

skilled labour for the cottage industries in the Kenya-Uganda railway development, masonry, carpentry and the agricultural sector. To achieve this, the curriculum had minimal reading, writing and arithmetic competencies but emphasised more on religion and hands-on competencies.

The first Post-Independence government reformed TVET to prepare a highly skilled workforce. Later in the 1980s, the reforms in TVET focused on solving the rising youth unemployment and high dropout rates. In the 1990s, TVET reforms focused on TVET financing, the quality of TVET training, and solving the rising youth unemployment. From 2001 to 2013, the reforms in TVET focused on improving access, equity, quality, relevance, and efficiency in the management of educational resources. The emphasis was on the cost and financing of the education, gender and regional disparities, as well as on trainer quality and Performance.

The promulgation of Kenya's new Constitution on August 26, 2010, which emphasised education as a human right, raised the need for more reforms to align laws on education with the Constitution. In this regard, the Task Force on Alignment of Higher Education, Science and Technology (TAHEST) identified challenges facing TVET and recommended policies and legislative and administrative measures to improve the TVET sub-sector (TAHEST, 2012). In addition, during the 2010 to 2022 period, reforms in TVET were influenced by the Kenya Vision 2030 and the TVET Act No. 29 of 2013. Implementation of the TVET Act streamlined the regulation of the TVET sub-sector. The Act moved the quality assurance role from the Ministry of Education to the TVET Authority. The Act further established TVET-CDACC and TVET Funding Board, which is yet to be operationalised. The Sessional Paper No. 1 of 2019 highlighted the challenges facing the TVET sub-sector and recommended actions to be taken. This ranged from TVET financing to the rebranding of TVET. Under TVET financing, having TVET trainees funded by HELB and getting government capitation greatly improved accessibility to TVET.

Currently, the TVET reforms are focused on: establishing and fully equipping TVET institutions; strengthening the capacity of the TVET by linking with industry and through dual training and certification; developing a credit transfer framework to support the progression of TVET graduates to University; re-tooling and upskilling TVET trainers; enhancing inclusivity in TVET; enhancing TVET funding through industry-led initiatives; and rebranding TVET.

8.3.1.1 TVET Structure

Governance in TVET is anchored under the Constitution, International and Regional Agreements, Conventions and Protocols, Acts of Parliament, Policies from the Ministry of Education, Government Departments and Agencies, and other Ministries and Presidential directives. Under the Fourth Schedule of the Constitution, education is a shared function between National and County Governments. The National Government is responsible for formulating education policy and standards, curricula, examinations and the granting of University charters, Tertiary educational institutions and other institutions of research and higher learning, Primary schools, Secondary schools and Special Education institutions, promotion of sports and sports education are its other

responsibilities. The County Government is responsible for Pre-Primary education, village polytechnics, home craft centres and childcare facilities within their jurisdictions.

TVET governance in Kenya is offered under National and County Governments as well as the private sector. TVET institutions in the National Government comprise those under MoE and other MDAs. An issue of concern is the multiple institutions under different ministries offering TVET outside the coordination of MoE. Therefore, curriculum delivery, certification, standards, monitoring, and reporting are fragmented, resulting in an uncoordinated and disjointed quality management process. In addition, collating data on these institutions is not centralised, which affects decision-making and planning for the wider TVET sector.

Relatedly, although some national institutions have specialised areas of training, they have not transformed into distinct discipline-oriented centres. They have not evolved into a "Centre of Excellence" where some can specialise in distinct areas of technological development and application.

The TVET Act of 2013 categorised TVET institutions into Vocational Training Centres (VTC), Technical and Vocational Colleges (TVC), National Polytechnics (NP) and Technical Trainers College (currently Kenya School of TVET). In 2012, there were 701 TVET institutions, and the number has since risen from 1,675 in 2017 to 2,396 in 2021, as shown in Table 8.1.

Table 8.1: Number of TVET Institutions by Category, 2017-2021

Category	2017	2018	2019	2020	2021
Public Vocational Training Centres (VTC)	899	982	1,149	1,156	1,156
Private Vocational Training Centres	47	47	47	83	88
Public Technical and Vocational Colleges (TVC)	91	101	191	230	255
Private Technical and Vocational Colleges	627	628	742	820	885
National Polytechnics	10	10	10	11	11
Kenya School of TVET, formerly KTTC	1	1	1	1	1
Total	**1,675**	**1,769**	**2,140**	**2,301**	**2,396**

Source: Economic survey, 2022

Table 8.1 indicates different levels of institutions offering TVET. The Technical and Vocational Colleges and National Polytechnics have distinct specialised areas and skills they train on.

8.3.1.2 Enrolments and Trainer-Trainee Ratio

The Economic Survey Reports (2017-2021), as indicated in Figure 8.1, reveals a 250% increase in trainee enrolment in TVET. However, this high enrolment is not matched with the increased recruitment of trainers in TVETs. According to the MoE Status Report, 2022, the approved enrolment capacity of public TVET institutions under MoE as of December 2022 was 164,388, while the actual capacity was 318,179, translating to an over-enrolment of 153,791 (93.6%). Enrolment in TVET by level and category is as shown in Figure 8.1.
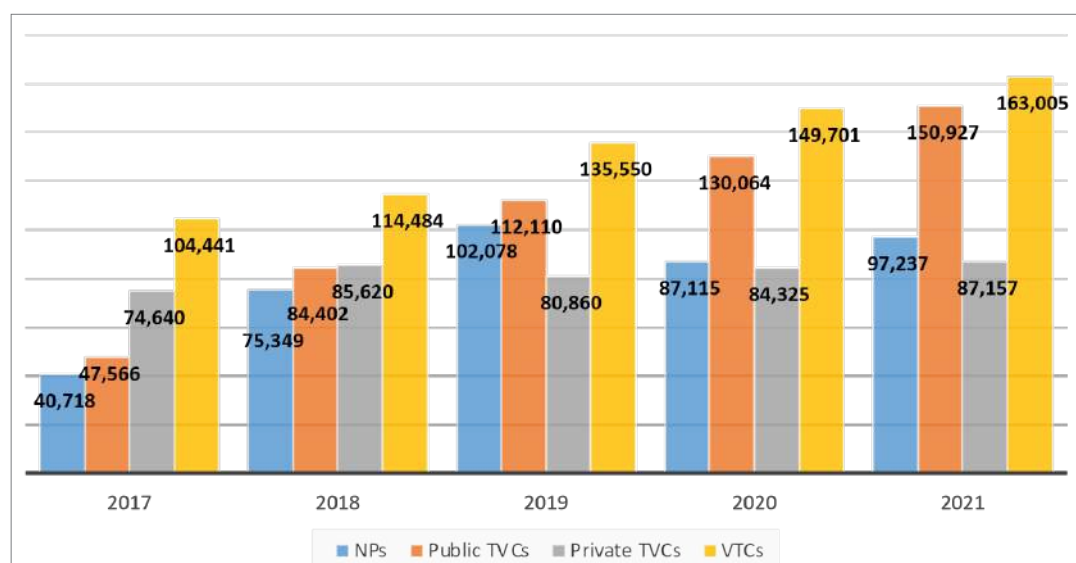
Fig. 8.1: Enrolment in TVET (Source: Economic Survey, 2022)

According to UNESCO (2009), there has been a claim of negative attitude towards TVET, which the colonial rule in Africa had fostered as a consequence of a system they had established where children of whites attended regular schools while African children acquired skills to offer manual labour. However, this attitude has since changed in a positive direction with the increased acceptance of the importance of TVET for socio-economic development and students showing interest in technology. Despite the increase in enrolment over the past few years, much more need to be done to ensure that TVET is not a last resort but a preferred choice in Tertiary education.

The current establishment of trainers in public TVET institutions under MoE is 6,205, servicing an enrolment of 318,179 trainees. The recommended ratio of trainer-to-trainee in STEM and business-related courses is 1:20 and 1:30, respectively (TVET Accreditation Handbook, 2021). This implies that TVET institutions under MoE require 15,022 trainers hence a deficit of 8,817, meaning additional staff are required for effective curriculum implementation. Table 8.2 shows the current trainer-trainee ratios in public TVET institutions under MoE.

Table 8.2: Trainer-Trainee Ratio in Public TVET Institutions

Courses	Enrolment as at December 2022	No of Public Service Commission (PSC) Trainers	Trainer: Trainees Ratio	Recommended Trainer: Trainee Ratio	Required PSCK Trainers
Business/ Liberal Studies	53,292	956	1:74	1:30	1,777
STEM	264,887	5,249	1:50	1:20	13,245
Total	318,179	6,205	-	-	15,022

Source: MoE, (2021)

TVET trainers are crucial for developing technical skills among the trainees who later get into different sectors of the economy. This means the quality of TVET graduates also highly depends on the quality of TVET trainers. This raises the need to develop a structure of qualifying TVET trainers in line with the sector requirements. At present, recruitment of TVET trainers is not harmonised. The PSC recruits for the institutions under MoE, while other ministries, private institutions, and county governments recruit on their own. This in itself has new challenges for the trainers recruited by PSC and other MDAs as they have a clear scheme of service, but those managed by councils/boards, county governments, and the private sector do not have a harmonised scheme of service. Many also lack appropriate pedagogical skills.

8.3.1.3 TVET Curriculum and Assessment

The skills development system in Kenya has, over the years, followed a curriculum-based, time-bound approach rather than a demand-driven one. As a result, most courses are designed, delivered and assessed on a centralised standard curriculum. For these courses, certification is based on the completion of courses and passing examinations rather than the demonstration of competencies. This raises a challenge of the relevance of the skills training and industry requirements.

The reform to Competency-Based Education and Training (CBET) requires specialised institutions and coordination. But these are lacking, especially because there are many players without effective coordination. Furthermore, the TVET sector has weak linkages with industry. Importantly, the objective of TVET is the employability and promotion of graduates, which requires linking training to the needs of the labour market. Therefore, the TVET curriculum must be relevant and demand-driven rather than supply-driven. However, linkage with the industry has been poor, and this has not been achieved.

8.3.1.4 TVET and Opportunities in CBC

The Competency-Based Education and Training (CBET) for TVET is an interface between the world of training and work. CBET is a mode of training where the emphasis is placed on the acquisition of competencies that is important for industry and business. (MoE, 2018). TVET CDACC was established under TVET Act No. 29 of 2013 to undertake the design and development of competency-based curricula, assessments and certification.

The Competency-Based Curriculum in Basic Education has its mission of nurturing every learner's potential. The curriculum has provided pathways for learners to develop their potential, abilities and talents. At Junior School (JS), the learner is introduced to a broad-based curriculum, and one of the subjects for developing technical skills is pre-technical studies. This equips the learners with foundational knowledge, skills, attitudes and values that are pre-requisite for the learner to specialise in engineering and technical studies at Senior School. At Senior School, the learners are further introduced to the technical, engineering and career, and technology studies tracks in the STEM pathway. The choice of pathways at Senior School is based on the learner's ability, personality and interests. There is dual training and certification provision for learners who choose practical-based subjects/courses in the career and technology

track. However, the Basic Education Curriculum Framework does not provide an exit pathway from JS to TVET for learners who may not be willing to join SS.

8.3.1.5 TVET Linkages with Industry

The importance of partnerships between TVET providers and the industry is a useful strategy for providing workforce training and maintaining knowledgeable trainees. Also, it is noted above that Work-Based Learning improves youth employability. If TVET institutions establish partnerships with the industry, then the learners would have better opportunities to get practical knowledge and appreciate market needs (Okolie *et al.*, 2020; Singh & Tolessa, 2019). Table 8.3 shows potential collaborations of TVET with industry/MSMEs.

Table 8.3: Potential Collaborations of TVET with Industry/MSMEs

Industry	Function	Areas of collaboration with TVET
Kenya Industrial Research and Development Institute (KIRDI)	Offers practical and industry-related training courses that are custom-made and focused on the needs of MSMEs in the general public.	May undertake research in industrial and allied technologies. It may also incubate innovations.
Kenya Industrial Estates (KIE)	Small scale enterprises	It has the potential to provide incubation for innovations developed in TVET institutions.
Kenya Industrial Property Institute (KIPI)	• Administer industrial property rights; • Provide technological information to the public; • Promote inventiveness and innovativeness in Kenya; and • Provide training on Industrial property	Protecting intellectual property and TVET innovations.
Jua Kali	• Provide on-the-job training and apprenticeship.	• Providing attachment and internship and on, job training, and work-based learning opportunities. • Mentorship into self-employment. • Innovation Centres for TVET graduates.
EPZ/Special Economic Zones	• To produce products for the local and external markets	Provide real-life exposure to the production of goods.

While there is potential to improve linkages with the industry, this has not happened. Instead, different institutions make their individual efforts to establish the linkages. The fact that multiple players — private and public, formal and informal — provide support to TVETs without effective coordination makes it difficult for strong linkages to be established.

8.3.1.6 Inclusivity in TVET

Sustainable Development Goals (SDGs) advocate for equality and seek to enhance inclusion without any discrimination based on ethnicity, race, gender, religion, or disability. ILO's (2017) policy guidelines on inclusive TVET aim at promoting access for persons with special needs and disabilities to training opportunities as well as equipping them with knowledge and skills that would enable them to participate in the labour market equitably. Inclusive training aims at reducing disparities of trainees with special needs and disabilities, gender and other vulnerabilities in the labour market. In addition, it aims at reducing social and economic costs to individuals, communities, economies and society.

The key assumption behind TVET for marginalised groups, including those with disabilities, is that TVET will empower them with skills and knowledge to be self-reliant (Mosalagae, 2020). This will serve as an effective tool for realising social integration and self-esteem (UNESCO, 2015). MoE advocates for inclusion where learners with special needs and disabilities are enrolled in regular educational institutions and plan to promote inclusive training in TVETs by increasing the enrolment of trainees with special needs as well as increasing their participation in STEM subjects (GoK, 2020). This plan includes adapting TVET infrastructure to make it disability-friendly and providing sanitary towels to female students to help in retention. The Taskforce on Enhancing Access, Relevance, Transition, Equity and Quality for Effective Curriculum Reforms Implementation (MoE, 2021) indicated that the integration of learners with special needs in National Polytechnics and TTIs, is very low, at 0.1% and 0.2% respectively. It is slightly higher in VTCs at 3.3%.

The MoE has four technical institutions for learners with special needs. These are Machakos Technical Training Institute (TTI) for the Blind, Karen TTI for the Deaf, Sikri TTI for the Deaf and Blind, and Nyang'oma TTI for the Deaf. However, these institutions do not have adequate capacity to admit all eligible trainees with special needs and disabilities. Moreover, there is no stand-alone institution that caters to trainees who are physically disabled, while the existing institutions are not fully adapted to cater for trainees with special needs and differently-abled. In addition, trainers are not adequately skilled to meet the unique needs of these trainees.

8.3.1.7 Views from Stakeholders on TVET Governance

While collecting views from the public, many stakeholders observed that the governance of TVET faces many challenges. Stakeholders complained that some of the council and board members lack the requisite skills to efficiently provide leadership in the management of the institutions. This makes it difficult for such members to contribute effectively to policy development and oversight. Tied to this was a complaint that there is a lack of adherence to the stipulated composition and functions of governing councils and boards of TVET institutions.

The implementation framework of the TVET Act is not clear as regulations were only developed for Sections 1-43 of the Act; TVETA and TVET CDACC were operationalised while TVET Funding Board was not. At the same time, there is non-compliance with the existing guidelines in the appointment of TVET institutional administrators and

managers. Secondly, there is a lack of effective coordination among policy makers and implementers among TVET stakeholders.

It was also noted that most of the Vocational Training Centres (VTCs) were neglected in terms of infrastructure and human resources. These VTCs being the foundation of TVET, require adequate resources to ensure quality curriculum delivery. Currently, VTCs are managed by County Governments as a devolved function.

Weak linkages between the informal sector/industry and TVET and lack of a clear structure to operationalise the partnership/linkages were other concerns raised by the stakeholders. This has led to a mismatch between training and emerging trends in the industry. A negative perception of TVET courses and preference for University education over TVET institutions by the public was observed. In addition, it was noted that there is a weak set-up, supervision and coordination of TVET Incubation, Innovation and Technology transfer centres.

On trainer management, stakeholders noted that there was no clear career progression, transfer guidelines for trainers, or succession plan. In addition, the trainers' remuneration was low, and most had stagnated in one job group. Further, trainers' education programmes were not standardised across the institutions.

Stakeholders observed that there was low inclusivity in enrolment and service provision for trainees with special needs in TVET institutions and that trainers had limited skills to train learners with special needs.

Some verbatim excerpts from stakeholders include:

> *The present skills training and development system in Kenya follows a curriculum-based time-bound approach rather than a demand-driven approach. Currently, the examinations and assessments are more theoretical than practical. Certification is based on the completion of courses and passing examinations rather than a demonstration of competency. This compromises the aim of TVET, which is to strive to produce industry-led and demand-driven hands-on skills for industrialisation* (RESP107).
>
> *While existing KICD and NITA curricula are designed for a regular trainee, those with disabilities face barriers in terms of course duration, content and implementation. The visually and physically impaired, for example, cannot handle technical drawing in its current form* (RESP108).
>
> *Lack of adequate infrastructure: Workshops, seminar rooms and offices. Although the county governments have tried to construct modern workshops, most Vocational Training Centres still operate from dilapidated buildings* (RESP173).
>
> *MoE to provide funds for infrastructure improvement in TVET and make accessibility provisions to enhance inclusion and effective participation of trainees with disabilities in training* (RESP175).

8.3.2   Open, Distance and e-Learning (ODeL) in TVET — Kenya

In Kenya, TVET institutions have embraced the use of ODeL platforms for curriculum delivery. The COVID-19 Pandemic and the resulting social distancing and lockdowns

further catalysed the actualisation of the ODeL model as training institutions switched from face-to-face to online training. The TVET Act, 2013 recommends the integration of ICT to improve access and training capacity. This policy also provides strategies for integrating ICT to improve access and training capacity across the TVET sector. There are efforts made to increase access to TVET through the development of an ODeL Policy for TVET as well as the ODeL standards.

Some TVET institutions have established Open Distance and e-Learning platforms to enhance the provision of flexible and blended TVET programs. For example, the Kenya School of TVET has developed and operationalised a National Learning Management System for TVET and a National Open Educational Resource Repository. TVET learners can access the platforms for various online TVET courses. According to ICT Infrastructure Review Report 2017, TVET, the trainee-to-computer ratio ranged from 1:50 to 1:4. The needs assessment report for the development of policy on ICT in Education and Training (2018) indicated that 76.8% of education institutions had access to ICTs while the digital content was available in 64.5% of the institutions. However, the availability of ICT facilities for Special Needs Education (SNE) was inadequate across all levels of learning and training.

8.3.2.1 Views from Stakeholders on ODeL

Some of the issues raised by the stakeholders include:

(i)   Low ICT integration in TVET has led to low utilisation of ODeL as a means of curriculum delivery. Most trainers have not embraced the use of ICT in the delivery of the curriculum.

(ii)   There is inadequate ODeL infrastructure, learning resources and trainers' capacity in TVET institutions. Digital devices and ICT laboratories are inadequate. Further, most trainers are learning about ODeL as a new mode of delivery.

(iii)   There is limited expertise in curriculum design for ODeL programs.

(iv)   Limited internet connectivity in different parts of the country hampers access to ODeL programs.

The following is a verbatim excerpt from a stakeholder;

> *The use of ODEL as a means of ensuring access to education requires careful exploitation of digital technology and a deep understanding and learning expertise of trainers. TVETA has already developed ODEL standards and guidelines, which highlight requirements for institutions to use ODEL as a platform of training. The infrastructure required is enormous, and some of the institutions have no internet connectivity and appropriate infrastructure* (RESP105).

8.3.3   Streamlining Continuity Between TVET and University Education in Kenya

In line with the requirement to harmonise qualifications, KNQA has developed and is implementing the Kenya National Qualifications Framework (KNQF) and several policies and standards. Regarding the CATS, Section 8 (l) of the KNQF Act No. 22 of 2014 mandates KNQA to facilitate linkages, credit transfers, exemptions and vertical and horizontal mobility at all levels to enable entry, re-entry and exit. In addition,

the Commission for University Education (CUE) has developed University Standards and Guidelines for CATs to provide pathways for higher education. Further, some Universities in Kenya have partnered with TVET institutions and offer credit transfer opportunities to their students. Students who have completed specific TVET qualifications may be granted credit towards their degree program, reducing the number of modules or courses they must complete. However, the CAT system has not been embraced across all higher education levels.

The impact of globalisation and technological advancement has empowered people through knowledge advancement and made learning flexible and accessible. However, the lack of a process for recognition of learning in informal and non-formal set-ups has hampered skill identification, progression and certification for the majority of people in the informal sector. This, therefore, has remained an impediment to the development and utilisation of human capital, some of whom are vulnerable, marginalised and displaced, notably the refugees and asylum seekers.

The Ministry of Education developed an RPL Policy Framework and RPL Implementation Guidelines to guide the regulators, qualification awarding institutions and other stakeholders on how to implement RPL in the country. This new initiative will address the increasing demand of many Kenyans requiring recognition for certification for either upskilling or for recognition of learning acquired, informally, non-formally, experientially or formally, regardless of where, how and when learning was acquired. However, there has been a slow implementation of the RPL Policy Framework mainly due to financial constraints and inadequate sensitisation.

8.3.3.1 Views from Stakeholders on Continuity Between TVET and the University

Stakeholders noted that credit transfer should be considered when Diploma and Higher Diploma students join University. They added that a credit accumulation and transfer system should be developed to cater for TVET graduates wishing to enrol in degree programs and provide an upward progression in academia. Further, there is a need for the education sector to develop a policy on credit transfer at all levels of Tertiary education — TVET and Universities. The implementation of the Kenya Credit Accumulation and Transfer System (KCATS) should be enhanced. It was also observed that some institutions are reluctant to embrace the credit accumulation and transfer systems as well as the National Qualifications Framework.

Some verbatim excerpts from stakeholders include:

> *There is a need to adopt best practices of credit transfer and recognition of prior learning by conducting an assessment of individual trainees during admission for vertical progression to determine their abilities and place them at appropriate entry levels* (RESP037).

> *There is a need to promote an effective transition of students from TVET institutions to the University level and harmonise the entry behaviour as well as recognise prior learning and ensure credit transfer of diploma holders is possible* (RESP038).

> *There is a need to fast-track the development of the Credit Accumulation and Transfer System (CATS) for all sectors to facilitate the determination of credits assignable to non-formal or informal learning acquired through productive work or life experiences. The Recognition of Prior Learning (RPL) policy, standards and guidelines provide candidates and learners with a fair and accessible process of evaluation, assessment, documentation and recognition of their acquired skills, knowledge and competencies* (RESP112).

8.4 Conclusion and Recommendations

8.4.1 Conclusion

On the basis of these findings, the PWPER concludes that TVET is important for national development and, more so, the transformation of Kenya. It has the potential to improve the productivity of individual learners, spur growth and use of modern technologies, and address unemployment among the youth. Furthermore, TVET is an important foundation of education and training, especially because it develops skills for those trained to engage in productive activities. Rapidly changing technologies have also meant the need to promote TVET to produce graduates suited for rapidly changing contexts.

Employability and competencies have undoubtedly become deeply intertwined, hence the need for increased investment in TVET. Kenya's CBC objectives are well aligned with TVET. CBC seeks to promote the interests of learners along certain career pathways that learners prefer. It will be possible, therefore, for learners to pursue a TVET-related career pathway without any hindrance. However, this will require addressing the challenges of transitioning from one pathway to another, especially transitioning from TVET to University and vice versa.

The linkage with the industry and ensuring that the industry informs the content of the TVET curriculum is a practice common in the developed world. The industry identifies needs that are then integrated into training opportunities by TVET institutions. Such linkages, however, work best under a unified framework for managing TVET institutions. In Kenya, multiple public and private institutions are involved in TVET without a coherent and effective coordination mechanism. Furthermore, the informal sector — *Jua Kali* — is significant in providing learning opportunities for those in TVET institutions. The sector provides an opportunity for "Work-Based Learning", but this linkage has not been effectively exploited. In addition, there are opportunities for using ODeL in TVET, but they are not well utilised. Some of these challenges can only be addressed through the amendment of laws that constrain the development of TVET.

Globally, the TVET sector is regulated by a central body. However, in Kenya, several bodies in various Ministries, Departments and Agencies (MDAs) created by Acts of Parliament regulate TVET. This has contributed to a multiplicity of standards and qualifications as well as overlaps in the mandate, which render it difficult to regulate the quality of training effectively.

8.4.2 Recommendations on Technical and Vocational Education and Training

1. To institutionalise linkages with industries, MoE shall:

    (i) Periodically review the TVET curriculum to ensure its relevance to the market needs.

(ii) Engage TVET trainees in the implementation of government projects such as the construction of infrastructure.

(iii) Provide a framework for a structured linkage with the *"Jua Kali"* industry.

(iv) In addition to provisions in TVET Act Schedule 4 Section 1 (2), ensure that the composition of the governing Councils/Boards should have at least 50% + 1 of their members drawn from relevant industries considering the diversity of professions.

(v) Establish industry advisory committees for the different sectors in the institutions.

(vi) Develop and implement industrial partnership/cooperation guidelines.

(vii) Develop and implement Workplace Integrated Learning (WIL) model.

(viii) Develop a policy framework on incubation, commercialisation of innovations and technology transfer centres and museums.

(ix) Review TVET Quality Assurance and Standards framework and tools to leverage technology in collaboration with the industry.

(x) Re-tool TVET trainers in partnership with the industry at all levels to enhance their pedagogical skills and relevance.

2. MoE, CUE and TVETA to Streamline linkages between TVET institutions at all levels and continuity of graduates from TVET to the Universities and vice versa:

(i) Develop a framework for linkages among TVETs to remove duplications and create centres of excellence based on niche areas.

(ii) Enhance the progression of TVET graduates by enforcing CATS and RPL policies.

(iii) Rebrand and reposition all TVET institutions at the National and County levels to become a preferred pathway for higher education.

3. MoE in collaboration with County Governments should establish an Intergovernmental Technical Trainers Service Council to streamline Technical Trainer Management in TVET and harmonise their Scheme of Service.

4. Support Technical Universities with appropriate infrastructure for SNE Programmes.

5. Strengthen the ODeL utilisation in TVET by providing increased infrastructure and resources, capacity-build trainers and other stakeholders and facilitate digitisation of TVET curriculum content. MoE in collaboration with Technical Universities to develop a TVET trainer programme.

6. Strengthen the capacity of TVET CDACC to carry out curriculum development, assessment and certification in TVET by expanding infrastructure, equipment as well recruiting and training staff in collaboration with industry.

7. Merge the training and assessment component in NITA with TVET CDACC.

8. MoE in collaboration with Universities that were upgraded from TVET should progressively transfer services of academic staff (trainers) who do not meet the requisite qualifications to teach in a University.

CHAPTER NINE

GOVERNANCE OF UNIVERSITY EDUCATION, RESEARCH AND TRAINING

9.1   Introduction

University education, research and training play a significant role in promoting economic development. In addition, globally Universities are responsible for production of human capital, research and innovation, and community service. The development of University education, research and training is guided by international agreements, conventions, protocols and policy frameworks such as the United Nations Educational, Scientific and Cultural Organisation (UNESCO) Status of Higher Education Teaching Personnel recommendations of 1997, the Bologna process of 1988 & 1999, the World Trade Organisation General Agreement on Trade in Services S/C/W/313, the Sustainable Development Goals (SDGs) and regionally, Africa Agenda 2063.

Kenya has experienced phenomenal growth in the University education sector. From one (1) University college at independence in 1963, there are currently 78 Universities and University colleges of which 42 are public and 36 are private (CUE, 2023). Yet, while University education has expanded, challenges have continued to bedevil the sector. The critical issues include governance, research, funding, access and equity.

In 2012 the Government enacted the Universities Act, which provided a uniform governance framework for all Universities in Kenya. However, in the recent past, the implementation of this framework has experienced challenges evidenced by the delayed appointment of Chancellors and Council members, student unrest, disputes in the appointment process of Vice-Chancellors and other senior management of Universities, and conflicts in the working relationships between Councils and top management.

Universities are one of the key agencies in the research ecosystem. University research contributes to the objectives of SDG and the national development agenda (UNESCO, 2019). However, not all Universities in Kenya perform well in research and innovation. Many Universities rank poorly in the international ranking of Universities in several aspects relating to research outputs and innovations.

It is also widely recognised that the rapid technological changes and globalisation have affected the modes of delivery of University education, research and training, leading to the emergence of Open Universities and Open, Distance and e-Learning

(ODeL). Furthermore, the Universities Act, 2012 and CUE Standards and guidelines recognise the significance of technology integration in the delivery of University education. Despite this recognition, technology uptake in Kenya's University education has been rather slow. The disruptions of University programmes due to the COVID-19 pandemic exacerbated the challenges and demonstrated the urgency of the utilisation of ODeL and operationalising the Open University of Kenya (Barasa, 2023). Following the adoption of the Basic Education Curriculum Framework, the Universities are expected to align their academic programmes and develop the appropriate Competency-Based Education and Training (CBET) framework.

Alongside this development is the challenge of Universities' preparedness for Competence-Based Curriculum (CBC). Following the adoption of the CBC at the level of Basic Education, the Universities are expected to align their academic programmes and develop the appropriate CBC training framework, but there have been limited discussions about this transition.

To provide policy recommendations to enable government respond to the above challenges in the University subsector the PWPER was required to:

(a) Review and recommend a governance framework for University education, research and training to streamline effectiveness and efficiency in the sub-sector.

(b) Recommend a framework for operationalising the National Open University of Kenya and a framework on Open, Distance and e-Learning (ODeL).

This Chapter, therefore, presents findings on these and makes recommendations for action.

9.2   Governance and Research in Universities

9.2.1   Global and Regional Context

Universities are strategic institutions in society and, therefore, their governance is of paramount importance. Governance underpins efficiency, sustainability, effective resource mobilisation and utilisation, collaboration and internationalisation of Universities. University governance structures should conform to set standards, values and legal requirements to enable these institutions to achieve their core mandate.

The complexity of the University landscape today requires that Universities develop robust governance institutions to respond to varied forces, voices and expectations. Sometimes balancing these varied expectations poses a challenge. Governance structures vary depending on several parameters, including size, nature and culture of the institution, geographical location and political environment. Generally, University governance involves a hierarchy of decision-making bodies including the Founder, Chancellor, Governing Councils/Board, Board of Trustees, Senate, Management, Students and Alumni associations.

The creation of governance organs and appointments of members to these organs such as Chancellor, Vice-chancellors and Council members is spelt out in and vary according to respective legal, statutory and regulatory frameworks. For example, the University of London (UK), Washington University, USA and University of Helsinki

(Finland) appointments are by the Board of Governors/Trustees. On the other hand, at Makerere University (Uganda) and the University of Dar es Salaam (Tanzania), appointments are by the President.

University Councils of public Universities in some countries comprise internal and external stakeholders. University Councils/Boards play an oversight role in the governance of Universities. In most cases, appointments of members of University councils are made by the Cabinet Secretary or Minister responsible for University Education.

The other University organs are the Senate and University Management Board (UMB), headed by a Vice-Chancellor. In Universities such as the University of Helsinki (Finland), the University of Washington (USA), the University of Cape Town (South Africa) and Makerere University (Uganda) appointment of Vice-Chancellors is by University Councils/Boards. This practice grants the governing body the autonomy to determine the selection and appointment process.

Day-to-day management of Universities is carried out by UMB and Senate, whose members are appointed in accordance with the statutes of respective Universities. The UMB plays the role of policy implementation, administration, financial and human resource management, while the Senate is in charge of academic affairs. In addition, student councils are elected and represented in the Senate to ensure inclusivity in the management of the Universities. A University's alumni also play a role in the institution's governance.

The Universities are facing challenges in the divisions between administrative functions and the academic responsibilities of a University. While both the administrators and the faculty – the academia – work for the same goal, how both pursue and seek to achieve the goal of teaching and research is often prone to conflicts, which sometimes lead to poor performance of Universities. Administrators are usually viewed as the Universities 'bureaucrats' who create red tape in decision-making, especially through administrative trivia (Blum, 2009). These challenges end up polarising Universities and making it difficult to achieve their mandates.

The governance of research in Universities also varies. Research is governed by a central body in some countries, such as South Africa and the UK. In South Africa, the National Research Foundation is established by law and incorporates research agencies that were previously serving various sectors and the research community. It brings together the Human Sciences Research Council (HSRC) and the former Foundation for Research Development (FRD) that included several National Research Facilities. Various research councils were also brought together in the UK to form UK Research and Innovation (UK RI). It comprises nine Universities delivering as one. The councils include those in biotechnology, biological, engineering, economic, social, and medical research, among others. They are brought together to implement UK's ambitious research agenda.

Another important development in the education sector is establishing alliances among Universities and merging Universities in line with specialisation. Indeed, University mergers and alliances are common, and governments need to address various challenges in the University sector. Universities merge to stay alive, thrive and

perform better. However, Universities generally resist merging because many want to operate independently.

Nonetheless, governments push for the merging of Universities to address various challenges, including enhancing performance in research and innovation. Those who do not perform get merged with those who perform to improve their capacities and perform as one. Mergers have occurred in the UK, Norway, Denmark, Belgium, Finland, Greece, Russia, and the USA. In the 1990s, these governments sought to restructure education and carry out rationalisation, as well as create scientific excellence in Universities and improve international rankings. As a result, Universities in these countries are now among the top-performing in the world.

9.2.2   National Context

Governance of Universities in Kenya is provided for in the Universities Act, No. 42 of 2012. The Act lists these as; Sponsor, Chancellor, Council/Board of Trustees, Vice-Chancellor, Senate, Management Board, Student Association and Alumni Association. However, the governance organs of public and private Universities under the Act have some variations. On appointment procedures of Chancellors, private Universities are usually guided by the instruments establishing the University.

In Public Universities, the procedure is prescribed in the Second Schedule of the Universities Act, 2012. This includes the involvement of key stakeholders such as the Senate, the Public Service Commission (PSC) and the Cabinet Secretary responsible for University education. The difference in the governance of public and private Universities is in the manner of appointment of Councils. For Public Universities is undertaken by the Cabinet Secretary, while for private Universities, it is done by a Board of Trustees. The law provides for the establishment of a Board of Trustees as a governance organ of private Universities.

The Vice-Chancellors, Deputy Vice-Chancellors, Principals and Deputy Principals of Constituent colleges for public Universities are appointed by Councils in consultation with the Cabinet Secretary after a competitive recruitment process conducted by the Public Service Commission (PSC). The current practice of involving PSC in the recruitment of the top management of Universities has challenges in the governance of public Universities. This is not in line with global best practices where Councils and Boards of Trustees of Universities have autonomy in the appointment process.

The peripheral role played by the Councils is contrary to provisions of the Mwongozo Code. This rolls back the very essence of the establishment of semi-autonomous public entities. In addition, it perpetuates the worrying notion that Councils lack the capacity to exercise governance oversight in their organisations effectively.

The divisions between the administrative organs and the faculty members remain a challenge. The divisions show not only in their different terms of service but also in how they engage in fulfilling the mission of the University, teaching and research. In some instances, the divisions lead to Universities pulling differently, thereby constraining the overall performance of the Universities.

In addition, all Universities have more non-teaching staff than academic staff who are involved in delivering on the mandate of teaching, research and community service. The figures range from teaching to non-teaching staff ratio of 1:2 in some of the old Universities to a ratio of 1:8 in some of the new ones. This means many non-teaching staff support teaching, research and community service.

This is happening while in an ideal situation, the ratio of teaching to non-teaching staff should be 3:1 or 70% teaching staff and 30% non-teaching staff (Blum, 2009; Martin, Robert E. and Hill, R. Carter, 2014).

The disproportionately high number of administrative staff is traceable to the recruitment to support teaching when many Universities established the Module II programmes and have retained them even after the number of students enrolled under the programme began to decline. Still, others were employed through patronage and because of pressure from political leaders in the regions where the Universities are located. The increased employment without considering the role of the staff in supporting the delivery of the mandate of Universities has led to the imbalance the share of teaching and non-teaching staff with its attendant negative consequences on efficiency and effectiveness.

One challenge facing the University sub-sector relates to governance of research. Governance of research is currently fragmented. Within the education sector, several institutions are carrying out research-related functions. These include the National Commission on Science, Technology and Innovation (NACOSTI), the National Research Fund (NRF), and the Kenya National Innovation Agency (KeNIA).

Other sectors have their research institutions too which carry out research in line with their mandate but without a central coordination body. For example, there is the Kenya Forestry Research Institute (KEFRI), Kenya Medical Research Institute (KEMRI), Kenya Marine and Fisheries Research Institute (KMFRI), and Food Crops Research Institute, which is part of the Kenya Agricultural and Livestock Research Organisation (KALRO).

These challenges have weakened the performance of Universities in Kenya; not many Universities perform well in global rankings. Few Universities in Kenya are among the top 100 in Africa, and even then, only a small number are among the top 20. In terms of publications and citations, in 2022, Kenya was ranked third after South Africa and Egypt. The previous year, Kenya was ranked second after South Africa. This good ranking was, however the result of only a few Universities. Many Universities in Kenya produce below their potential, weakening Kenya's overall performance in research and scientific development in general.

The failure to prioritise merit in the appointment of academic and administrative heads of Universities has impacted their performance negatively. Merit is undermined by ethnic considerations and the general politicisation of appointments. This has reduced productivity and the performance of Universities because some of those recruited may not have the skills to effectively support teaching, research, and community services.

Other challenges in the governance of Universities include:

- The delayed and lengthy process of appointment of chancellors for public Universities.
- Lack of standard criteria for the appointment of University management.
- Interference in the appointment process of Vice-Chancellors, DVCs and Principals and Deputy Principals of colleges.
- Lack of autonomy and independence of the appointing bodies.
- Lack of autonomy of the Universities.
- Inconsistency in the process of appointment of deans. Duration of service for elected student council.
- Lack of research autonomy.

9.2.3   Views from Stakeholders

9.2.3.1 On Governance

Stakeholders raised several concerns with the governance of Universities:

(i)   They noted the need to confer University Councils with the full mandate to recruit Vice Chancellors rather than have these appointments under the Public Service Commission (PSC). There is no justifiable reason for the material departure of Universities from the cardinal national value of good governance practices enshrined in the Constitution of Kenya, Universities Act, the State Corporations Act and encapsulated in the *Mwongozo: Code of Governance for State Corporations* that the Top Management in the form of the Vice-Chancellors, Principals, Deputy Vice-Chancellors, and Deputy Principals should be appointed with the other officers of the Universities by the Council, internally.

(ii)   The need for University Councils to be appointed by the Cabinet Secretary in charge of University education on recommendation by a selection panel established for that purpose.

(iii) The need for continuous Capacity building of University managers and Councils.

(iv)   Bloated management structures and, therefore, the need for rationalisation.

(v)   Governance of Universities and how Universities are managed was cited as a challenge weakening the performance of Universities.

The following verbatim responses also capture the views of stakeholders:

The Universities Act, 2012, and Regulatory Acts should be amended to make CUE the de facto regulator with modalities on engaging other regulatory bodies on training in order to end the war between CUE and professional bodies in the implementation of Section 5 of the Universities Act of 2012 (RESP047).

Councils should be required to employ staff only after determining and outlining the staff requirement for optimum performance of the University, and in case of bloated staff, the Council should be empowered to rationalise the staff (RESP 050).

A verbatim excerpt on student placement:

> *Universities to restructure undergraduate courses to ensure that they are student-centred and encourage students to learn; provide opportunities to think critically and to analyse and solve problems; assist students in developing skills in gathering and evaluating information; provide the experience of working cooperatively in teams and small groups; help students acquire versatile and effective communication skills; offer a variety of learning experiences; and apply technology effectively to enhance learning* (RESP052).

9.2.3.2 On Research

(i)   Many research findings are lying in the University libraries, but the findings are not disseminated to the public or industry because there is poor linkage between industries and society in general.

(ii)   Most Kenyan Universities emphasise teaching at the expense of research and innovation. This has led to limited engagement in research.

(iii)   The linkages between researchers, innovations, and industry remain weak largely due to a lack of partnerships between the private and public sectors. Universities have to institutionalise and strengthen academia-industry linkages and community engagement.

(iv)   NRF should be moved from MoE to the Presidency.

(v)   Research Institutes, Universities, and Tertiary Institutions should align their research programmes to the national development agenda.

(vi)   Need to enhance applied research in Research Institutes, Universities and Tertiary institutions to attract collaborations and partnerships.

(vii)   Regional imbalances in the placement of Universities hence the need to review the placement policy to ensure regional balance. In addition, there is a need to review the available declared programs and their nomenclature.

(viii) The Universities were not involved by the TSC while coming up with the reviewed criteria for placement of students into the teacher education programs.

(ix)   Review the admission criteria into the University to be aligned to the Basic Education Competency-Based Curriculum Framework (BECF) in readiness for 2029.

(x)   CUE to develop a mechanism of collaborating with Kenya University Quality Assurance Network in capacity building, developing and implement strategies for strengthening industry exposure, including industry-University linkage with relevant institutions, industrial attachments (for both staff and students), internships, collaborative supervision of students during industrial attachment, and institutionalisation of Industry-University liaison committees to inform curriculum development, practical training, and job placement and ensure regular review of University academic programmes and industry skills requirements.

Some of the verbatim excerpts on research:

> *As the backbone of development, research has not been fully embraced, and the disconnect between relevant and needed research for development, policy actors and decision-makers, innovation and industry is still wanting. As a result, the quality of research and related capacities to carry out research remain low* (RESP048).
>
> *There is a need to develop models for engagement with key stakeholders drawn from the public, private and civil societies and enhancing revenue mobilisation for University education financing. Further, this can help in eliminating the confusion on the donor/partner approach, where a partner is approached by various government agencies to raise funds for the same student* (RESP117).

9.3   Open University and Open, Distance and e-Learning (ODeL)

9.3.1   Global and Regional Context

In order to improve access to University education and promote lifelong learning and flexibility, Open Universities have proliferated worldwide. For example, the Open University UK, Athabasca University of Canada, Korea National Open University, National University of Distance Education, Indira Gandhi Open University of India, University of South Africa UNISA, Zimbabwe Open University, National Open University of Nigeria and Open University of Tanzania exist and provide University education.

According to Mulder (2015), the qualifier "open" in the name "Open University" connotes the following attributes; open entry, freedom of time, freedom of place, freedom of pace, open programming and open to all people and target groups. Notably, no single Open University in the world is fully open in all these six aspects of openness; instead, there is a large diversity in the Open Universities' institutional profiles. For example, the UK Open University has no entry requirement for most courses except basic English and Computer skills. Athabasca University of Canada entry requirement is based on age where, for one to qualify, they must be 16 years or older and demonstrate English language proficiency, with some courses requiring prior education to enrol. In South Korea, to be admitted to the Korea National Open University, the applicant must have a certificate of Secondary education and knowledge of the language in which the training is conducted at a good level.

Enhancing access to University education has also depended on the adoption of ODeL for traditional Universities. ODeL is a mode of delivery of programmes that draws from the features provided by open learning, Distance Education, and e-learning, which include: Access and equity, resource sharing, learner-centredness, flexibility, active learning, interactivity, ubiquity, and connectivity. In response to COVID-19, the phenomenon of Open, Distance and Electronic Learning gained traction as many Universities adopted blended learning modes. The adoption of ODeL globally has been hampered by challenges such as the high cost of technological infrastructure, internet connectivity, the digital divide, faculty and student capacity, and policy frameworks.

9.3.2   National Context

Several efforts have been made, spanning over a decade, to establish the Open University of Kenya (OUK). These efforts are gleaned from various sources including documents that were reviewed as follows: The inclusion of Section 24 (1b, 2, 4, and 5) in the Universities Act, 2012 on establishing specialised degree awarding institutions which provides for establishment of national open University to offer University programmes through distance and e-learning. In addition, a Task Force set up by the Minister for Higher Education in 2010, in its report entitled 'A Proposal for the Establishment of the Open University of Kenya' recommended the establishment of OUK.

Several reasons justify the need for establishment and operationalisation of OUK for the following reasons:

(a)   Increasing demand for University education.

(b)   The need to provide equitable and accessible education to all Kenyans.

(c)   There are already advances in ICT that continue to create an environment conducive to ODel and individualised learning, not limited by space, pace, or time constraints. In addition, the emergence of digital technologies with significant implications on capacity, delivery, and access to information and the emergence of mobile technologies provide high potential for access anywhere, anytime.

(d)   The Open University of Kenya is anticipated to enhance access to higher education since the percentage of persons with undergraduate education is currently low compared to other countries (Table 9.1).

Table 9.1 Percentage of the Population (25–64-year-olds) with University Education Attainment (2021)

Country	Bachelors or Equivalent (%)	Masters (%)	PHD (%)
Australia	28	9	2
Canada	24	11	10
Finland	17	16	1
Israel	24	13	1
Spain	11	16	1
USA	25	12	2
France	12	14	1
South Africa	7	1	1
Kenya	5.7	0.9	0.1

Source: (OECD, 2021)

In 2023 MoE formed a Technical Committee to operationalise the OUK. The Committee has made progress and developed the constitutive documents and programmes to enable the University be chartered and admits its first batch of students by September, 2023. OUK will initially offer the following degree programmes: Data Science, Cybersecurity and Digital Forensics, Business and Entrepreneurship, Education Technology, and Economics and Statistics. Others will be Postgraduate programs in Learning Design and Technology and Leadership and Accountability.

The establishment of OUK is in line with the Government's policy to achieve the goals of Kenya Vision 2030, Sustainable Development Goals (specifically SDG Goal 4 of leaving nobody behind) and those Agenda 63 on the establishment of E-Universities whose aims are to use ICT to increase access to Tertiary and continuing education. OUK will provide opportunities for higher education to many students who have been unable to access conventional institutions due to their locations or socio-economic backgrounds. .

The University aims to expand learning and inclusive access opportunities in higher education, establish collaboration with other institutions, and contribute to developing and expanding higher education in the country and across borders. Strategies to achieve these aims include mobilising resources, providing facilities, developing policies, establishing appropriate organisational structures, and deploying appropriate ICT infrastructure and student support services (OUK Technical working group, 2023).

9.3.3   Views from Stakeholders on OUK and ODeL

A total of 102 responses were made in relation to the operationalisation of Open University in Kenya. Of these, 84% of the respondents recommended the creation of an Open University to actualise the operationalisation of the Open University in Kenya.

It was noted that members of the public did not seem to understand the concept of an Open University, which they confused with ODeL hence the low number of respondents. However, further findings from counties regarding the Open University indicated that an Open University is required. Below are some of the verbatim responses from the public:

> *The Open University of Kenya is a good initiative. However, the admission requirements for open Universities should be reviewed to allow more students to meet the admission criteria* (RESP041).
>
> *This is a timely move, given the flexibility that this mode of learning presents and the challenges that pandemics like COVID-19 present. For example, during the peak of COVID-19, online learning proved useful. However, for Universities that didn't have the requisite infrastructure, learning was heavily affected* (RESP042).
>
> *Universities should encourage students to take advantage of open and free online learning platforms, exchange programs and strategic partnerships that seek to improve their communication skills, in addition to other sector-specific skills, team working capabilities, and problem-solving skills, which are deemed important for graduates when seeking job opportunities* (RESP041).

9.4   Competency-Based Education and Training in Universities

Competency-Based Education and Training (CBET) encompasses both education and training aspects. It integrates Competency-Based approaches within both formal educational settings and vocational training programs. CBET recognises the importance of practical skills and workplace readiness. It aims to align education and training with the workforce and industry needs. For example, at the University of Helsinki, Finland, Competency-Based Education and Training (CBET) is based on defined competencies that learners are expected to master. These competencies are often set in consultation with employers to ensure that they meet the needs of the labour market. In Africa, Alexandria University in Egypt is implementing Competency-Based Education to equip learners with the necessary competencies and skills to succeed in their future careers.

In Kenya, the Ministry of Education adopted Competency-Based Education and Training (CBET) for TVET as an interface between the world of training and the world of work. The first Cohort of the Competency-Based Curriculum (CBC) joined Junior School in 2023 and is expected to join the Universities in 2029. Upon full implementation of CBC, the number of learners entering STEM courses will be at the ratios of 60%, humanities at 25%, and creative studies at 15%.

Against this backdrop, the Universities must work towards aligning their programmes to CBC. The Universities will need to align all academic programs to consider the content covered by the CBC before a learner qualifies to enter the University. Universities should also develop the criteria for admitting students based on their competencies. In order to align with CBC principles, Universities need to review and revise their, teaching methods, assessment strategies, and learning resources.

The alignment of teacher education training programmes in Universities has already started. For instance, the University of Nairobi, Pwani University and Strathmore University, are working jointly with the University of Helsinki and Laurea University of Applied Sciences in Finland. This collaboration has been made possible by the Training for Trainers for Teacher Education and Management in Kenya (TOTEMK) project funded by the Ministry of Foreign Affairs and the Finnish Government. The project will train lecturers in these Universities, who will, in turn, be involved in revising the current teacher training curriculum in other Universities across the country.

Some Universities in Kenya have integrated Competency-Based Education (CBE) into their programs. For example, the Technical University of Kenya offers a Bachelor of Technology in Mechanical Engineering program integrating CBE principles. The program aims to develop students' practical and technical skills through hands-on learning experiences. Mount Kenya University, on the other hand, offers a variety of programs with a CBE focus, including a Bachelor of Science in Health Systems Management, a Bachelor of Science in Public Health, and a Bachelor of Commerce. The lecturers, however, need to be retooled to be able to effectively deliver the CBE principles.

In preparation for Universities to receive students under Competency-Based Education (CBE) in 2029, there is an urgent need for the development of a University Competency-Based Education Framework (UCBEF), which will guide the implementation of CBE in the Universities. In a University context, a CBE framework involves designing and delivering courses and programs structured around clearly

defined competencies that learners must demonstrate to earn their degree. Some key elements in a University CBE framework include pedagogy, learning resources, assessment, monitoring and evaluation.

9.4.1 Stakeholder Views on CBET

Stakeholders noted that Universities should be prepared for CBC, but the current training is still not aligned to CBC. They noted that there is a need for teacher graduates to be prepared for CBC by 2023. In addition, it was underlined that CBC is new, and therefore, it is important to review all teacher training programmes to ensure the successful implementation of CBC. On this, they also noted that the Universities align all academic programs to take into account the content covered by the CBC before a student qualifies to join the University.

9.5 Conclusion and Recommendations

9.5.1 Conclusion

These findings show that Universities in Kenya face many challenges that continue to weaken their performance in teaching and research. Universities in Kenya also perform poorly in international rankings, especially because of limited productivity in research and innovation. Governance is one issue that continues to impede Universities from effective performance. Appointments of senior management and members of governance organs, including the Chairs of Councils and Chancellors, tend to raise concerns because many considerations inform the appointment. Some of the considerations result in weakening the credibility of the appointment process.

The involvement of the PSC in the appointment of top management of Universities in Kenya compromises their autonomy and should be discontinued. Several reasons account for this conclusion. First, apart from strategic oversight, the next most important role of boards is the CEO's recruitment, performance oversight, and exit. Even in instances where there is an additional authority to report to, as in the public sector, the Board takes the lead in the search and identification of the right CEO. On the other hand, a healthy Board/CEO relationship has a better chance of a good start when it is the Board taking responsibility for the selection of the CEO. Second, in keeping with the fiduciary responsibility a good Board with the best interests of the organisation in mind will know who and how to find the leader who is the right fit for the organisation. The Board will also continually have a succession plan in place. It will similarly take the lead in consulting and involving key stakeholders in the search where appropriate.   Thirdly, continuous interaction between the Board and the organisation enables the Board to better understand the organisation's challenges, performance, and opportunities. The Board is, therefore, best suited to identify the right leader/CEO to take the organisation to the next level by addressing the challenges faced or identifying new opportunities. Fourth, PSC is designed to recruit mainly for mainstream public service, while semi-autonomous agencies such as state corporations and Universities, which are created by various legal instruments, give mandates to their respective boards to hire and fire their CEOs (usually in consultation with the Cabinet Secretary).

Another challenge that weakens Universities' performance is divisions between administrative organs and the faculties. Sometimes they pull in different directions in fulfilling the mandate of teaching and research. Furthermore, Universities in the country have occupied the same niches. All of them seem to be teaching almost the same courses irrespective of the areas that the University was founded to pursue.

Research governance is fragmented. There are many research institutes in the education sector and the country without coherent coordination. Fragmented research governance, on its own, contrain the effective contribution to national development, because every institution and sector has goals that may be focusing on different aspects of the national development priorities.

The Open University of Kenya (OUK) will provide equitable access to University education and opportunities for lifelong learning. ODeL has a mode of delivery that will supplement the traditions of programme delivery. This will reduce pressure on infrastructure. Leveraging technology in delivery in the education sector will lead to the effective use of digital resources, which will, in turn, lead to reaching more numbers and remote areas of the country. Digital technology will certainly be of benefit to students, provided there are sufficient resources to service the use of this technology. Universities are yet to fully prepare for CBC. Universities graduate training programmes are yet to make the necessary shift towards CBC and align with the objectives of this curriculum.

9.5.2   Recommendations

9.5.1.1   On Governance

1.   Amend the Universities Act, 2012:

   (i)   To provide for the identification of Chancellors in public Universities by a selection panel constituted by the Cabinet Secretary to recommend three nominees for appointment by the President.

   (ii)   To provide for the appointment of a selection panel to identify and recommend nominees for consideration as Chairperson and Members of Council, by the Cabinet Secretary in charge of Ministry of Education.

   (iii)   To have the University Council carry out the recruitment and appointment of Vice-Chancellor and Deputy Vice-Chancellor, Principals of Colleges and Deputy Principals in Public Universities without the involvement of the Public Service Commission.

2.   Amend the Universities Act to provide for recruitment of Deans of Schools and Faculties through competitive appointment rather than elections.

3.   Amend the State Corporations Act, 2015 to include Universities in the list of exempted entities to make them autonomous. In addition, income generation entities by Universities should be allowed to operate under respective Universities.

4.   All Technical Universities should be Chartered under Section 25 (2)(a). Technical University of Mombasa (TUM) and Technical University of Kenya (TUK) should be re-Chartered under this provision.

5. The Government to provide enhanced support to University research by:

    (i)   Allocating one-third of the 2% provided in the STI Act, 2013 annually to Universities and TVET.

    (ii) Exempting the University scholarly research and innovation levies.

    (iii) MoE to develop a framework on institutionalising University and industry linkages by promoting University and industry staff engagements in training and practical experience.

6. CUE to develop a Higher Education Qualification Framework (HEQF) to equate and provide learners with deficits in some discipline an opportunity to bridge in order to meet admission requirements for University level education.

9.5.1.2 On Open University and ODeL

1. MoE to operationalise an Open University in Kenya by 2023/2024 financial year.

2. CUE to Review the University's Standard and Guidelines, 2014, to provide criteria on minimum admission qualifications for OUK.

3. MoE to develop a National Policy Framework on Open Distance and eLearning (ODeL).

4. MoE and ICT Authority to fast track affordable broadband high-speed Internet connectivity to Tertiary educational institutions.

9.5.1.3 On Competency Based Education and Training

1. The Commission for University Education to spearhead the development of the University Competency-Based Curriculum Framework (UCBCF).

2. Universities should retool all academic staff in order to implement the CBE.

3. Universities to review their Bachelor of Education degree programme to align with the CBC by the start of 2023/2024 academic year.

CHAPTER TEN

FINANCING TERTIARY EDUCATION, RESEARCH AND TRAINING

10.1 Introduction

Sustainable financing of Tertiary education is a national imperative given Kenya's quest to become an industrialised and upper-middle-income country. It is also important because improved human capital will enable the country to transform all sectors of the economy and deliver development where people enjoy a high quality of life. High-level skills development takes place at the TVET and University levels. Indeed, Governments in Africa have adopted public TVET institutions to build technical and professional skills for the youth to enhance opportunities for employment (Kinuthia, 2018). However, Africa's TVET is expensive, and only a few countries fund these institutions sustainably. The sub-sector is capital intensive, requiring substantial financial commitment by the Government, industry and households.

Alongside the demand for TVET is growing pressure to expand University education. The demand for University education has risen over the last few years, driven by the growth in the knowledge-based economy and demographic changes and needs. As more individuals seek a University education, it becomes increasingly important to ensure that higher education systems are adequately funded to increase their overall capacity, quality and equity.

This Chapter discusses financing Tertiary education in Kenya with specific attention to TVET and Universities in fulfilment of the Terms of Reference requiring the PWPER to review and recommend a financing framework for TVET training and development, University education, research and training.

10.2 Global and Regional Context

10.2.1 Financing TVET

The success of TVET is a paramount agenda globally, requiring sustainable financing approaches. The French Development Agency (FDA) and UNESCO conducted a regional comparative study on TVET financing in six Asian Countries: Laos, the Philippines, Malaysia, Thailand, South Korea, and Vietnam, while benchmarking them against international practices across the Globe. The study established that the available TVET funding is below the TVET's needs and insufficient to cover the financial needs of the TVET institutions. The study links this to a lack of public resources and the low priority given to TVET education. The percentage of GDP allocated to TVET in some countries such as; Finland – 1.3%, Thailand – 0.15%,

Sweden – 0.83%, Netherlands – 0.81%, Malaysia – 0.09%, and Austria – 0.75% shows that the allocations are varied.

In other nations, financing for TVET is a joint responsibility between the National Government, Regional Governments and industry. For example, in Indonesia, the National Government, through the Ministry of Education, provides 20% of the National budget to TVET, local governments fund education using 20% of the regional budget, and communities also support the financing of TVET institutions. In addition, some privately owned TVET institutions are funded independently based on the type of ownership.

Just like in Indonesia, in the Philippines, multiple sources of finances are used to fund TVET. The Philippines also has adopted a Universal Access to Quality Tertiary Education Act that provides free tuition and other school fees in state and local Universities and colleges as well as state-run technical-vocational institutions. The financial sources include the National Government through the Annual General Appropriations Act (GAA), Local Government Units (LGUs), industry/employers, student fees, Donations/contributions from Asia Development Bank (ADB), and the World Bank (WB). In the Philippines, funds for private TVET institutions also stem from diverse sources, including trainees' fees, companies that fund apprenticeships, Non-Governmental Organisations (NGOs) and training programs.

Other countries have adopted different modes of funding TVET, such as Germany, which has three entities (the companies, the public sector and the trainees) that contribute to the financing of vocational education and training. In Singapore, the sources for funding TVET are; Government budgets, student fees, employee contributions, private donations, income-generating activities and external assistance, while in South Africa, funding of TVET is centralised in the Department of Higher Education and Training (DHET).

Therefore, countries adopt different models to finance TVET with various funding sources, as indicated in Table 10.1.

Table 10.1: Summary of TVET Financing Models

Model	Country(ies)	Source of Funding
Performance-Based Approach	Finland, Thailand, Malaysia, and South Korea	State and Municipalities
Enterprise-led training model	Bangladesh, South Korea	PPP
Student-based funding	Vietnam, Malaysia, Republic of Korea	Students
Contract-based approach	Vietnam	The budget allocated through tendering and funding is based on the number of trainees, graduation rates, and employment rates.
Input-Based Funding System	Thailand	A budget-oriented model where the Government funds TVET based on unit costs on expected expenditures.

10.2.2 Financing University Education and Research

In the United Kingdom, Finland, Netherlands, Norway and Sweden, a funding formula is applied based on student enrolment and completion rates. In addition, some countries (e.g., Sweden) also use staff salaries as a determinant of University funding. In Norway, 60% of funding is based on unit cost, 25% on students' completion rates, and the rest on the number of international students. The Czech Republic allocates 78% of the funds based on unit cost, 10% on a competitive basis and the rest on student completion rates (OECD, 2021). The funding of Universities is also channelled in the form of tuition fees, mainly supported through student loan schemes.

Generally, OECD countries fall into three different groups when it comes to tuition fees and direct financial support for Tertiary students:

(a)   no tuition fees and high financial support to students,

(b)   high tuition fees and high financial support, and

(c)   low or moderate tuition fees and targeted financial support for fewer students.

Support for students comes in many forms, including means-based subsidies, family allowances, tax allowances for students or their parents, and other household transfers. Governments strive to strike the right balance between these different subsidies, especially in periods of strained public coffers. Means-tested grants awarded based on financial need are the most common type of grant and are used in more than two-thirds of the countries with available data (OECD, 2021). About half offer merit-based scholarships (i.e., awarded based on academic, athletic, or artistic merit) and more than one-third target scholarships to disadvantaged population groups. These different kinds of grants can operate simultaneously, so 10 out of the 26 countries with data award both merit-based and means-tested scholarships (OECD, 2021). South Africa's funding model combines performance-based formula, which has earmarked grants (30%) and blocks funding (70%). In Ghana, base grants are allocated to Universities based on students' enrolments and factor grants are also allocated to disadvantaged Universities. University funding comprises contributions from the Government, households and Universities.

Funding of research in most countries is centralised. For example, the United Kingdom has a research funding agency called the UK Research and Innovation (UKRI). UKRI brings together seven Research Councils, Innovate UK and Research England. It aims to promote and support world-class research and innovation in the UK. In order to achieve these objectives, UKRI provides funding and support to researchers and innovators across the UK and works to promote collaboration and partnership between different stakeholders in the research and innovation ecosystem. UKRI also promotes diversity and inclusivity in research and innovation and ensures that research and innovation benefit all parts of society.

In some countries, funding of Tertiary education is centralised. For example, in England, the Office for Students (OfS) is responsible for providing funds to higher education providers. In India, the University Grants Commission (UGC) funds Universities and colleges, while in Ghana, the body responsible is the National Council for Tertiary Education (NCTE).

10.3   National Context

10.3.1 Financing TVET

Over the years, financing TVET in public institutions was through the exchequer, with fees paid by households and development partners. The MoE, through the State Department of Technical and Vocational Education and Training, converted their share of government support to TVETs into trainee capitation and HELB Loans. The allocation was based on the number of enrolled trainees, posing a challenge to new institutions with low enrolment to meet operational and development costs. This approach was also applied by other ministries outside MoE. For instance, the Ministry of Health is collaborating with HELB to disburse student loans to Medical Training Colleges students. From 2017 to 2021, trainees in VTCs benefitted from capitation grants disbursed directly to institutions by MoE. However, in 2021, the Government policy converted conditional grants to equitable shares to the Counties. Therefore, VTCs are supposed to receive capitation from the County Governments.

The enrolment and demand for TVET courses have been on the rise. However, statistics show that a great proportion of KCSE graduates neither join University nor TVET, while a number of KCPE graduates do not join Secondary school despite the government policy on 100% transition. This implies that the TVET sector has a huge responsibility to take care of most of these youths by providing opportunities in TVET institutions. Hence the need for government investment in the subsector.

Table 10.2 shows trends in TVET demands and the total enrolment in both public and private TVET institutions between 2017 and 2021.

Table 10.2: Trends of TVET Demands Between 2017-2021

Year	Total Candidature (KCSE)	Candidates who scored C+ and above	Difference (C and below)	Percentage (%) of the candidates who did not score C+ and above	Total Enrolment in TVET as of the year
2017	610,501	70,073	540,428	89	267,365
2018	653,787	90,950	562,837	86	359,852
2019	693,770	125,835	567,935	82	430,598
2020	743,253	143,142	600,111	81	451,205
2021	822,501	145,776	676,725	82	503,798

Source: KNEC, 2023

It is worth noting that trainees in public TVET institutions under MoE receive uniform allocations despite the variance in the costs of the courses. Disbursement of capitation is delayed, and there has been over-enrollment of trainees in some

institutions/programs, thus overstretching the available limited facilities, which compromises the quality of training. Trainees admitted into TVET institutions who lack KCSE certificates are not eligible for HELB funding. It is also noted that TVET institutions for trainees with special needs receive no additional capitation from the Government despite the high cost of assistive devices, adaptive infrastructure and support staff. These institutions are, therefore, acutely underfunded.

Budgetary allocation of the TVET subsector in the FY 2022/23 comprised approximately 5% of the funding to the education sector. The rest of the funding is directed to Teachers Service Commission, Basic Education and University education. Figure 10.1 illustrates the trend of budgetary allocation to the TVET and other subsectors.
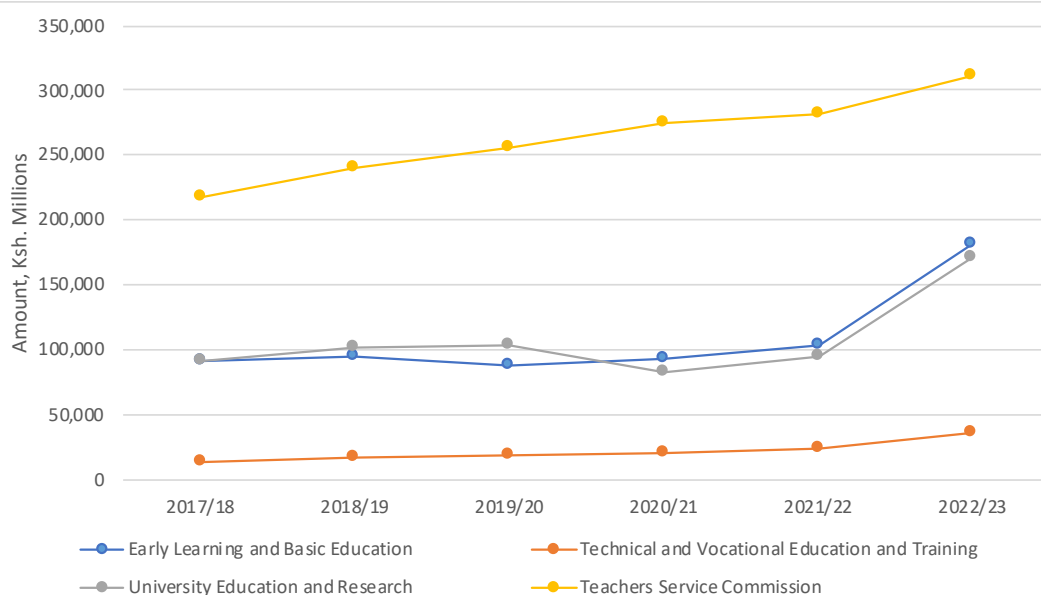
Fig. 10.1: Trends in budgetary allocation in TVET and other subsectors (Source: TNT, 2022)

From the figure, there has been a minimal increase in the resource allocation in TVET between 2017/18 to 2022/23. In addition, TVET remains the least resourced of the sub-sectors.

TVET trainees are entitled to a HELB loan of Ksh. 40,000 per trainee per year. In the Financial Year 2019/20, HELB disbursed loans amounting to Ksh.4.056 billion to 101,470 TVET students, Ksh. 3.147 billion to 65,813 students in 2020/21 and Ksh. 4.093 billion to 106,449 students in 2021/22. The number of TVET students awarded bursaries in FY 2019/20 were 20,166 while those in FY 2020/21 were 20,054. The number reduced further to 19,822 in FY 2021/22. The average bursary amount per student was Ksh. 5,000 annually (HELB, 2023).TVET Trainees in public TVET institutions under MoE receive capitation grants from the Government, as indicated in Table 10.3.

Table 10.3: Analysis of Capitation and Household Funding in TVET in (Ksh)

Item	FY 2018/19	FY 2019/20	FY 2020/21	FY 2021/22	FY 2022/23
Trainee Enrolment	81,564	118,770	153,439	255,341	323,339
Capitation per trainee given	30,000	22,500	22,500	22,500	17,000
Household funding (trainees' fees) HELB loans and bursaries	26,420	26,420	26,420	26,420	26,420
Total fees payable	56,420	56,420	56,420	56,420	56,420
Deficit	–	7,500	7,500	7,500	13,000

Source: MoE, 2023

Table 10.3 shows that enrolment in public TVET institutions has been growing while government funding has not increased proportionately. This leads to a deficit in funding, which affects the implementation and quality of TVET programs.

The State Department of TVET established a Memorandum of Understanding (MOU) with the National Youth Service in 2016 and reviewed it in 2021. The agreement entails developing youth skills in various disciplines and building capacity for social transformation. In this collaboration, NYS meets the cost of training while the State Department of TVET avails infrastructure and human resources in selected public TVET institutions. This contributed to increased enrollment in these institutions.

On Infrastructure development, the TAHEST report of 2012 recommended the expansion of TVET facilities and opportunities, including establishing at least one Technical Vocational College (TVC) in every constituency. MoE has been expanding TVET Capacities since the year 2013. In 2013, Kenya had 43 operational TVET institutions, which have since increased to 218 (214 Regular and 4 Special Needs). However, most of the newly established institutions have only one fully equipped department. A standard minimum requirement for a model institution is at least five functional departments with support infrastructure. In addition, infrastructure and training equipment in some of the old TVET institutions are dilapidated and obsolete, hampering the quality and relevant training. There is a need to refurbish, rehabilitate and equip them with new training equipment that is in tandem with modern industry technologies. MoE has continued to equip the new TVCs with state-of-the-art equipment. However, this is an ongoing initiative to improve access, quality and relevance in the TVET sector.

10.3.2   Financing Universities

Until the 1990s Government was financing the entire University education, including giving students' stipends. However, following the Kamunge Report of 1988 on *Education and Manpower Training for the Next Decade and Beyond*, cost-sharing was introduced where the Government was to pay Ksh. 70,000 for every student admitted to University, while the students were to pay Ksh. 16,000 as tuition fees. In addition, students received Ksh. 50,000 from HELB as loans for their upkeep, accommodation

and book allowance. The government grant per student also increased over time to a high of Ksh. 242,000 per student by 2016, with disparities within Universities. The direct tuition fees component paid by students, however, remained the same, although households continued to meet other associated costs. In FY 2017/2018 Government introduced Differentiated Unit Cost (DUC) as a model for funding public Universities. DUC is based on a number of parameters, including staff cost, student-staff ratio, student numbers, cost of infrastructure and operations, student load and cost of programs (MDUC Report, 2015). Fourteen clusters were approved by the Universities Fund, with programs being funded at negotiated Maximum Differentiated Unit Cost (MDUC). Clinical medicine and dentistry have the highest DUC of Ksh. 720,000, while Applied Humanities and Social Sciences have the lowest cost of Ksh. 180,000 (Table 10. 4).

Table 10.4: DUC for Universities Fund Cluster Programmes

Cluster	Subject Area	Annual Cost (Ksh)
Ia	Medicine – Pre-Clinical	360,000
Ib	Medicine – Clinical	720,000
IIa	Dentistry – Pre-Clinical	360,000
IIb	Dentistry – Clinical	720,000
IIIa	Veterinary Medicine – Pre-Clinical	324,000
IIIb	Veterinary Medicine – Clinical	564,000
IVa	Pharmacy-Pre – Clinical	324,000
IVb	Pharmacy — Clinical	504,000
Va	Architectural Studies — Architecture Part I	360,000
Vb	Architecture — Professional (Part II)	432,000
VI	Engineering Surveying	396,000
VII	The Built Environment and Design — Construction, Real Estate, Urban and Regional Planning, Landscape Architecture, Design, Computing.	360,000
VIII	Agriculture, Health Sciences, Food Sciences, Natural Resource Management and the Natural Environment-Agriculture, Food Science and Technology, Medical Laboratory Science and Technology, Animal Science, Nursing, Clinical Medicine (BSc.), Radiography, Agribusiness Management, Sport Science, Foods and Nutrition, Medical Psychology, Physical therapy, Public Health, Environmental Health, Community Health and Development, Wildlife Science and Management, Agribusiness Management.	324,000

Cluster	Subject Area	Annual Cost (Ksh)
IX	Applied Sciences and Education (Science and Technology) Education (Science, Tech, and Special Needs), Exercise and Sport Science, Biochemistry, Biotechnology, Biomedical Sciences, Applied Microbiology and Molecular Biology, Applied and Technical Physics, Applied and Technical Chemistry, Applied and Technical Biology, Statistics, Actuarial Science, Financial Engineering, Environmental Science.	288,000
X	Basic Sciences Mathematics, Physics, Chemistry, Biology, Geography (B.Sc.).	264,000
XI	Applied Social Sciences and the Arts (Professional), Hospitality, Media and Communication Studies, Library and Information Studies, Business Information Technology, Sport Science and Management, Fashion Design, Interior Design, Music (B.Mus.), Civil Aviation Management, Maritime Management, Agribusiness Management, Theatre and Film Studies, Fine Art, Food Service and Management.	240,000
XII	Business, Law, Education (Arts), Economics.	216,000
XIII	Applied Humanities and Social Sciences — Geography (BA), Public Administration, Psychology, Music (BA), Peace and Security Studies, Disaster Management, Anthropology, Languages, BA with Education, Language and Communication, International Relations and Diplomacy, Social Work and Development Studies.	180,000
XIV	Basic Humanities, and Social Sciences Economics, Geography (BA), Basic Humanities and Social Sciences - History, Philosophy, Religion, Sociology, Literature, Political Science, Linguistics.	144,000

Source: UFB, 2023

The Government was expected to finance 80% of the DUC through capitation, while the remaining 20% was to be provided by the students and Universities. However, since inception, the Government has never met the 80%, only providing 66.4% in FY 2018/19, which declined to 48.1% in FY 2022/23. Consistent underfunding of the DUC over the five years (Figure 10.2) affected operations in many public Universities and resulted in the accumulation of pending bills.
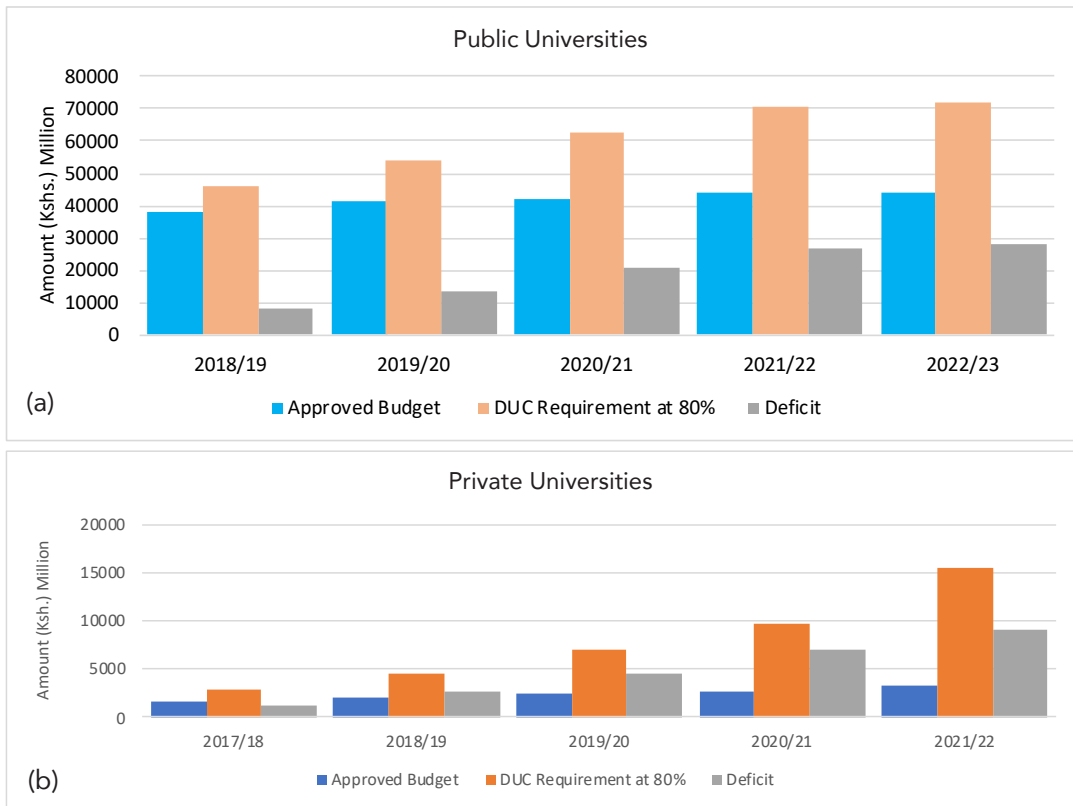
Fig.10.2: Funding of public (a) and private (b) Universities and the deficits (Source: UFB, 2023)

Since 2017, the number of candidates enrolling for KCSE examinations has increased from 608,814 in 2017 to 869,782 in 2023 at an annual rate of 7%. The number of students placed by KUCCPS to pursue degree programs is expected to grow exponentially in the next five years, with the number expected to grow to 290,950 in 2027 compared to the current (KCSE 2021) 124,460 as per the Figure 10.3 (Average of 90% of students qualify to enter University apply and are placed every year).
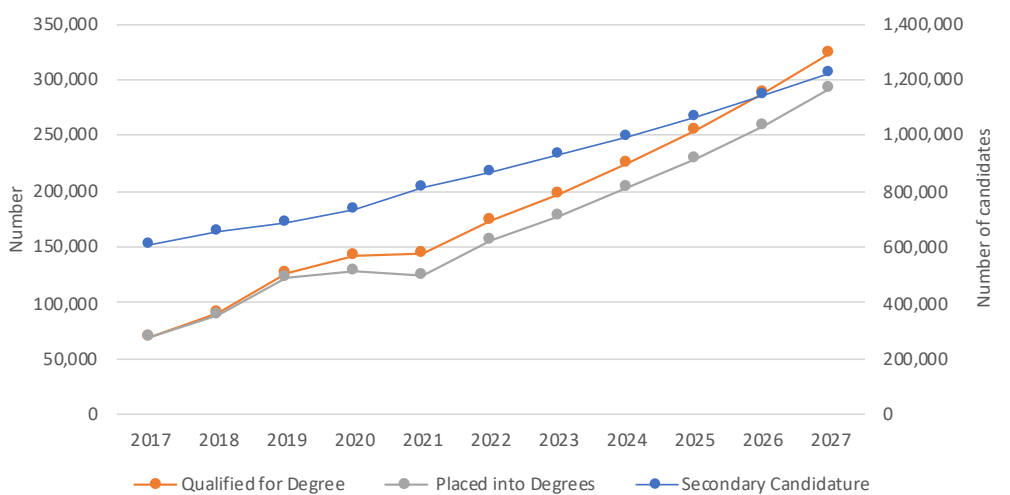
Fig. 10.3: Projected number of students placed in the Universities (Source: UFB, 2023)

The immediate impact of the implementation of DUC was differentiated funding for students based on their courses, increased capitation in some Universities and reduction in others. The DUC costs for programmes have remained unchanged since 2015 in spite of the rising cost of operation exposing Universities to financial challenges. These challenges are attributable to the failure of the Government to fund the Universities at the expected levels and reduced income from the Module II Stream. Consequently, Universities have been unable to raise adequate income to support their operations resulting in accumulated pending bills amounting to Ksh. 61.8 billion by December 2022, as shown in Table 10.5.

Table 10.5: Pending Bills in Public Universities in Kenya.

Nature of debt	Amount in Ksh. Billion
PAYE	17.72
Pension	24.52
Other payroll deductions	3.03
Deferred salaries	2.90
Unpaid Suppliers	7.65
Part-time Lecturers	3.20
Refundable student fees	0.88
Other Debts	1.15
Total	**61.8**

(Source: MoE, 2022)

The pending bills continue accumulating monthly, pushing Universities into further debt and affecting operations in the public Universities and, in some instances leading to industrial action by employees due to delayed salary payment.

Besides the failure to implement DUC, a number of factors have contributed to the financial crisis in public Universities. These can be classified as either external or internal. The external factors include an abrupt reduction in capitation in the 2017/2018 financial year for some of the Universities, a drastic reduction of students qualifying to join public Universities following a drop of those who scored C+ and above in 2017 KCSE, and the concomitant placement of students in private Universities, placement of students in the Universities without meeting the full cost as provided in DUC; unfunded Collective Bargaining Agreements (CBAs) and lack allocation of funds to sustain the CBAs. The outbreak of the COVID-19 pandemic in 2020 resulted in low fee collection and burdened Universities as learning was discontinued in most Universities despite staff continuing to receive salaries, the mismatch between set salaries and the ability of individual Universities to pay and an unfavourable legislative environment for University enterprises.

Underfunding of DUC resulted in sustained financial deficits in public Universities, which increased from Ksh. 10.84 billion in 2019 to Ksh. 53.14 billion in 2023. This has resulted in a cumulative deficit amounting to Kshs. 164.25 billion (Table 10.6).

Table 10.6: Funding of Public Universities 2018/19 to 22/23 (Billions)

Financial Year (FY)	2018/2019	2019/2020	2020/2021	2021/2022	2022/2023
Number of Students	233,218	241,015	271,446	324,182	356,188
Requirement (DUC) (Kshs. Billions)	46.18	63.58	73.81	89.14	97.38
Allocation in Billions	35.34	40.51	41.91	43.84	44.24
DUC % Allocation	66.40	60.70	53.77	49.51	48.11
Deficit (Kshs. Billions)	10.84	23.07	31.90	45.30	53.14

Source: UFB, 2022

In Private Universities, 78,650 students were enrolled as Government Sponsored with a DUC requirement of Ksh. 12.3 billion. The Government, however, provided Ksh. 3.4 billion (21.94%) of the DUC, resulting in a cumulative funding deficit of Ksh. 56.97 billion from 2018 to 2023 (Table 10.7).

Table 10.7: Funding of Government-Sponsored Students in Private Universities

Financial year (FY)	2018/2019	2019/2020	2020/2021	2021/2022	2022/2023
Number of students	29,729	43,676	61,541	78,443	93,773
Requirement (DUC) (Kshs. billions)	7.23	10.85	15.13	19.23	18.45
DUC % Allocation	1.98	2.50	2.73	3.37	3.17
Deficit Kshs. billions)	5.26	8.35	12.23	15.86	15.27

Source: UFB, 2023

Other than resulting in inadequate funding to Universities, the DUC model has the following challenges:

(i) Does not take into account the cost of post-graduate courses: Universities with a large number of post-graduate students (University of Nairobi, JKUAT, and Kenyatta University) ended up being disadvantaged in the application of DUC;

(ii) Does not take into consideration the cost of TVET courses in public Universities: Universities with large numbers of TVET students, such as the Technical University of Kenya, Technical University of Mombasa, Co-operative University, and Multimedia University, are disadvantaged in the application of DUC; and

(iii) Generalises all Universities without addressing the unique challenges each faces. For instance, employees in Universities in gazetted hardship areas require payment of hardship allowances, like other civil servants in those areas.

Universities also faced other financing challenges. Universities with medical schools have hired medical doctors to teach and carry out clinical services in government hospitals as they offer students clinical experience. The Ministry guided the Universities to pay all doctor-lecturers enhanced clinical allowances ranging from Ksh. 172,000 to Ksh. 200,000 per month, depending on the grade. Although funds

were provided to pay the arrears, no money was provided to pay the enhanced allowances moving forward.

Implementation of expensive capital projects using recurrent revenue, wastages and leakages in financial systems, an irrational number of academic programs run from multiple centres, a high number of employees, redundancies in the organisation structure, rehiring of staff upon retirement and expensive internal and external borrowing, the establishment of several senior management offices with overlapping responsibilities, leasing of spaces for teaching and learning, sub-optimal utilisation of staff and facilities, absorption of staff following conversion of middle-level colleges to Universities among others.

The Universities engaged in massive capital projects commissioned and mainly constructed with the support of fee collections or loans. The disbursements to contractors took precedence over any other financial commitment resulting in a significant strain on Universities' cash flow, especially with reduced revenue from module II programmes.

The Universities have established several layers in their organisation structure with duplication and overlapping functions. These units require administrators and office secretaries to support their operations, increasing running costs. Furthermore, financing the organisational structures, especially top management in Universities, is too expensive, with the remuneration of top management shooting up the wage bill in Universities. Arbitrary review of the salaries for top University management by Councils has resulted in huge disparities in the salary of VCs across Universities. The salaries range between Ksh. 921,000 and Ksh. 1,610,111 per month, with VCs in new Universities earning more than those in older Universities. According to SRC, the ratio of allowances to basic salaries for Vice-Chancellors, Deputy Vice-Chancellors, Academic staff and non-academic staff ranges from 30% to 186%.

The Universities lease premises nationwide to operate as satellite teaching centres away from the main campus. Staff members often require travelling to and from these centres to teach and for meetings, while Universities pay rent for the hired premises. This substantially increases the cost of running programs in Universities.

The Universities established several schools, institutes, centres, and faculties with a mandate to develop and mount curriculum. However, many staff members are hired to support the new programs without conducting a business case analysis. As a result, the programs cannot raise adequate fees to cover mounting costs. Further, the staff hired to teach and facilitate these programs cannot adequately be occupied. In addition, in most public Universities, resources are not optimally utilised as the declared capacity in programmes by the Universities exceeds the number of students placed by KUCCPS, leading to idle capacity, as shown in *Appendix 10.1.* Placement of government-sponsored students in private Universities in programmes available in public Universities has exacerbated the financial crisis in public Universities.

Further, when Module II revenue ended, Universities resorted to borrowing money to finance the budget deficit. This was in the form of delayed remittances of salary deductions, namely, Co-operative member societies, KRA, Pension, NSSF, and

Bank loans. The "borrowing" from individual staff members attracts huge penalties from the entities like Pension Funds and KRA, as provided in their rules. Although this borrowing solved the immediate financial problems, it has left Universities in a financial crisis, as reflected in pending bills.

10.3.3 Employee Welfare

Employees are undeniably crucial stakeholders who influence organisational effectiveness by stabilising the tremors caused by the business environment (Agusioma, Nyakwara & Mwiti, 2019). Therefore, every organisation has an inexplicable role in providing welfare facilities to the stakeholders, not just monetary but also non-monetary considerations. According to Ikechukwu and Kedishu (2021), employee welfare entails all those activities of an employer, which are directed towards providing the employees with certain facilities and services in addition to wages or salaries. The objective are to provide better life and health to the workers, make the workers happy and satisfied, relieve workers from fatigue and improve the intellectual, cultural and material conditions of living of the workers. Therefore, the concept of staff welfare in Kenyan Universities needs to be viewed as extending beyond remuneration issues to include; Insurance schemes, pension benefits, access to credit, availability of working equipment and other associated requirements, and security of tenure.

The basic salary and house allowances for University staff are determined by Unions and Inter-Public Universities Councils Consultative Forum (IPUCCF) on the advice of the Salaries and Remuneration Commission (SRC) and with the concurrence of the MoE, Ministry of Labour and Social Protection and The National Treasury. The factors SRC considers in determining the salaries do not include the ability of individual University to pay. MoE and the National Treasury provide an estimate of the budget before negotiations commence. Unfortunately, this has not been the case, and the budget has remained more or less the same over the years. This has resulted in payroll-associated debts in a number of Universities. It is expected that an enhanced budget allocation in the subsequent financial years will be provided to sustain the increased salaries and to support the automatic annual increments.

Table 10.8 shows a significant increase in the basic salary of staff across Universities between 2013 and 2021, reflecting associated pension component contribution by Universities. This may not have been matched by revenue growth in the Universities.

Table 10.8: Salaries for Teaching Staff

Grade	Maximum Basic salary in 2013	Maximum Basic salary in 2017	Maximum Basic salary in 2021
Lecturer	118,861	140,683	160,357
Senior Lecturer	135,243	159,720	206,563
Associate Professor	172,960	203,605	250,668
Professor	211,753	248,898	283,087

Source: UASU, Submission to the PWPER

According to UASU submissions, academic staff in Kenya are lowly remunerated compared to their counterparts in the region (Table 10.9). The variations have resulted in a brain drain for academia to high-paying destinations while demotivating Kenyan lecturers. Across Universities, non-teaching staff on a higher salary scale receive higher salaries than Professors, further demotivating the academic staff.

Table 10.9: Maximum Salaries Per Grade for Academic Staff for Selected Countries as at 2022 (Ksh)

Grade	Kenya	Uganda	Tanzania	Botswana
Graduate Assistant	82,552	164,505	*	95,920
Assistant Lecturer	139,915	187,059	141,389	133,000
Lecturer	160,357	250,476	216,056	262,000
Senior Lecturer	206,563	275,911	266,333	312,240
Associate Professor	250,668	306,671	317,778	341,107
Professor	283,087	326,795	345,556	*

Source: UASU, Submission to the PWPER

Although, Kenya's GDP is relatively higher (USD 264) compared with Tanzania (USD 167), Uganda (USD 109) and Botswana (USD 40), Kenyan lecturers receive the lowest salaries. Attempts by unions to petition for better terms of service have not borne much fruit, as a number of Universities have been unable to pay negotiated salaries. In addition, other conditions, like staff offices, teaching resources and other essential supportive services, are not fully provided.

10.3.4   Financing Capital Projects

Capital expenditure comprises funds for infrastructure development, which is critical for quality and relevance in University education and research. The Government identifies key priority projects to be implemented in the University sector. The utilisation of Recurrent and Capital Expenditure is guided by laws and circulars from National Treasury and other relevant Government Agencies issued from time to time. However, the lack of a framework for managing capital projects in the Universities has resulted in a large number of stalled projects. Some projects stalled as early as 1990, while others stalled in 2017 mainly due to a lack of funds and poor planning and scheduling, whereby new projects are initiated without completing ongoing ones. The completion levels of most stalled projects vary between 0.31% to 95.94%.

Newly established Universities and University colleges face unique challenges. The DUC model disadvantaged small and upcoming Universities and University colleges, which attract fewer students in the initial programme areas as they are just starting to build a reputation. Moreover, programmes in these Universities tend to be predominantly in the humanities and social sciences, which have lower unit costs compared to STEM programmes. These Universities also have comparatively limited infrastructure.

Infrastructure funding, which is critical for quality and relevance in University education and research, is not adequately provided to support maintenance of the ageing facilities, equipping of laboratories for teaching and learning and putting up of new facilities. The capital grants have also been on the decline and often with gaps between approved and actual disbursement throughout the period. This is one of the causes of several delayed, dilapidated and stalled projects with an adverse implication on quality, relevance, equity and access of University education.

10.3.5   Financing Research

Kenya's Research Policy has three pillars, the Kenya Vision 2030, which recognises the critical role of Research and Development (R&D) and innovation in accelerating economic development and the related Sector Plan for Science and Technology, launched in 2008. Others are the 2013 Science, Technology, and Innovation Act and the Universities Act of 2012.

NACOSTI is responsible for, among other functions, regulating research activities and developing national research priorities; NRF is responsible for resource mobilisation, allocating funds to research institutions, and promoting multi-disciplinary research. KeNIA, on the other hand, is responsible for the development and management of the Kenya National Innovation System.

Section 32 (2) (a) of the STI Act of 2013 provides that NRF shall consist of a sum of money amounting to 2% of the Gross Domestic Product (GDP) provided by the Treasury every financial year. This requirement is in line with Article 33 of the Constitution, which provides for academic freedom and the right to conduct research. Data from NACOSTI indicates that funding for research currently stands at 0.8%. Although research funding in Kenya is relatively high in sub-Saharan Africa, it is below the national target and the OECD average benchmark of 2.4%, as illustrated for selected countries in Table 10.10.

Table 10.10: Research and Development Expenditure as a Percentage of GDP

Country	Percentage of GDP	Country	% of GDP
South Africa	0.7	Austria	3.1
Nigeria	0.2	Singapore	2.2
Kenya	0.8	South Korea	4.2
Ghana	0.4	Switzerland	3.15
Ethiopia	0.6	German	3.14
Israel	4.3	Japan	3.26
Sweden	3.3	OECD average	2.4

Source: Global Innovation Index, 2018.

From Table 10.10, it is noted that countries with high investment in research and development are associated with high economic development. Adequate research infrastructure is key to the promotion of research, innovation and commercialisation. Research infrastructure, especially in Universities, is inadequate to facilitate

competitive research. There is also inadequate human capital and weak resource mobilisation structures. Weak institutional collaboration in research funding and high taxation of research equipment slows down research outputs.

Research funding in Kenya is comparatively low, particularly in Universities, with a big proportion being funded privately or through donors. The lack of clear and targeted funding for research in Universities has diminished the contribution of research outcomes to National development. The UNESCO 2019 report indicates that lack of funding is reportedly a major challenge, affecting the capacity of national actors, the effectiveness of policy implementation, the performance of research organisations and the options available to individual researchers. Table 10.11 shows the allocation of funds to selected research institutions in Kenya in the 2020/2021 financial year.

Table 10.11: Government Allocation to Selected Research Institutions in 2020/2021

S/No	Institution	Allocation (Ksh.)
1	Kenya Marine and Fisheries Research Institute	164,475,000
2	Kenya Industrial Research Development Institute	682,531,823
3	National Museums of Kenya	1,616,600,000
4	Kenya Medical Research Institute	1,855,385,079
5	Kenya Water Institute	218,753,558
6	National Research Fund	822,718,961

Source: Auditor General Reports, 2022

While NRF funds Universities, it does receive comparatively low funding than other research institutions, as evidenced by Table 10.11 above. This implies that Government funding to research in Universities is not sufficiently funded. This is compounded by the fact that these research institutions, in addition to their allocations from the Government, compete for NRF grants with Universities.

10.4   Views from Stakeholders on Financing Tertiary Education

(i)   Blanket funding of TVET trainees regardless of course of study.

(ii)   HELB Funding to be more inclusive to cater for trainees with special needs, marginalised and TVET students in other MDAs and Private institutions.

(iii)   Failure to fully implement DUC.

(iv)   Government to consider a conditional bailout grant to settle pending bills on statutory deductions and waivers on outstanding PAYE accrued due to budget deficits.

(v)   There is no fair, transparent, and equitable criterion for funding capital development projects in Universities.

(vi)   Inadequate funding for infrastructure development and improvement in Tertiary institutions.

(vii) Funding for CBAs currently distorts recurrent grants allocated to Universities as it is not provided for separately.

(viii) There is no funding consideration for post-graduate programmes.

(ix) Staff costs are incredibly high and surpass the funds provided by the Government. This accounts for over 80% of overall expenditure by the Universities.

(x) Newly established Universities do not have the requisite infrastructure to operate optimally.

(xi) High fees are charged by various Government Agencies.

(xii) Issuance of loans, bursaries and scholarships is not in tandem with grants issued to Universities.

(xiii) Inadequate funds for research and innovation.

(xiv) Government to implement the statutory provision of 2% of GDP as provided in the Science, Technology and Innovation ACT, 2013 and provide for management of all research funding in the country through the National Research Fund.

(xv) Research funds' disbursement should be structured to support critical pillars in the country's social and economic transformation.

(xvi) Institute a framework to attract private sector involvement in the Education, Science, Technology and Innovation Sectors.

(xvii) Provide tax-free for Research Equipment to facilitate the national research agenda and effective sharing of equipment realised through collaborations.

(xviii) Introduce appropriate tax incentives and/or tax relief aimed at encouraging R&D activities by the private sector.

(xix) Universities are not able to commercialise their innovations, limiting their resource pool and discouraging innovation efforts.

Below are some verbatim excerpts from stakeholders:

The Government should allocate funds for the expansion of physical facilities in Secondary Schools and TVETs. Capitation/grants from the Government are stumbling and have no clarity on their budget. More efforts should be put in place to increase infrastructure development and supply modern tools and equipment in the VTCs (RESP034).

Let all Universities and colleges/TVETs develop linkages with the marketplace to ensure that what they are teaching is in line with the market needs (RESP035).

The market has already raised the red flag that the graduates released to the labour market are not adequately prepared for the demands of the industry (RESP036).

The curriculum development system in Kenya followed a curriculum-based,

time-bound approach rather than a demand-driven approach. Most TVET programs were developed long ago and are, therefore, not well aligned with the relevant provisions of the Constitution, aspirations of Kenya Vision 2030, the East African Community Protocol, International Standards and the needs of the society (RESP106).

While existing KICD and NITA curricula are designed for a regular trainee, those with disabilities face barriers in terms of course duration, content and implementation. The visually and physically impaired, for example, cannot handle technical drawing in its current form (RESP108)*.*

10.5   Conclusion and Recommendations

10.5.1 Conclusion

Funding TVET and Universities in Kenya has continued to experience challenges over time. TVET sub-sector has grown exponentially both in the number of institutions and enrolment. This phenomenon is witnessed in many other parts of the world, including the developed world. Governments are giving attention to TVET because it provides opportunities for youths to acquire skills for employment and entrepreneurship. The rapidly changing technologies and dynamics of the labour market require that TVET link with industries to update skills and training equipment. Hence the need for adequate funding in TVET.

Since the adoption of DUC and the cessation of module II programmes, public Universities have faced unprecedented financial challenges, which have affected University education. Funding from the National Treasury has not matched the cost of University education, University expansion, and rising student enrolment. This, coupled with the failure of the Government to fully implement the DUC and limited internally generated revenue, has plunged Universities into a financial crisis. In addition, weaknesses in the governance of public Universities compounded the problem. In light of the projected increase in enrolment, having a sustainable financing framework for Universities is essential.

The Government has been implementing a policy on massifying Universities towards establishing a University in each county. Consequently, there has been a rapid expansion of the number of Universities without regard to the financial implications. Thus, many newly established Universities lack the basic infrastructure to facilitate teaching and research, thereby threatening the quality of University education. Moreover, the lack of a model for capital development has resulted in dilapidated infrastructure in most public Universities and TVETs; indeed, some high schools have better infrastructure than many Universities.

Funding for research is neglected, especially because there are no sufficient funds. What is available is also not disbursed in a manner to have an impact on the national agenda. Further, there are many research institutions in different sectors, and all of them get a budget allocation. Thus, there is duplication of functions and even double budget allocation in some instances.

10.5.2 Recommendations on Financing of Tertiary Education

1. Government to implement the *Variable Scholarship and Loan Funding* (VSLF) Model to replace the Differentiated Unit Cost Model **(Appendix 10.2)**. The Model combines scholarships and loans and is appropriate for different categories of students: Vulnerable, extremely needy, needy, and less needy

    Scholarships and loans will be distributed to four distinct categories of Universities/TVETs/TTCs   students as shown below:

Student category	Scholarships (%)	Loans (%)	Household (%)
Vulnerable	82	18	0
Extremely Needy	70	30	0
Needy	53	40	7
Less Needy	38	55	7

Note:

(i)   Funding based on the actual cost of the program in a University and TVETs;

(ii)   An average of 61% of the University and 58% in TVET of the cost of the programme shall be a Government Scholarship;

(iii) An average of 36% for the University and 32% in TVET of the cost of the programme shall be Government Loan;

(iv)   An average of 7% for the University and 10% in TVET of the cost of the programme shall be household contribution.

2. Government to provide for conditional grants for `VTCs, ring-fence the amount for the institutions.

3. MoE to provide a minimum essential package to facilitate operations of the new public Tertiary institutions.

4. Salaries and Remuneration Commission (SRC) to review the Job Evaluation and grading structure for University academic staff, taking into account comparative skills and remuneration in the region.

5. Government to incentivise Universities and TVETs to improve performance in research and innovations by:

    (i)   In order to spur STIs and other strategic social and economic sectors, the Government to implement 2% of the statutory provisions provided in Science and Technology Innovation Act, 2013.

    (ii)   Developing a framework for engagement of Universities and TVET in consultancies in government ministries, including criteria for affirmative action to promote such support.

    (iii) Government to provide research funds to support post-graduate training through the National Research Council.

6.   MoE to develop and implement a performance-based formula for capital infrastructure development for Universities and TVETs.

7.   Universities should rationalise senior administrative positions (e.g., DVCs, Registrars, Directors, Deans and Departmental Heads) as cost containment measures, and review and strengthen their internal financial management systems to make them sustainable.

8.   Universities and TVET institutions should strengthen a framework for internal mechanisms of resource mobilisation.

CHAPTER ELEVEN

LAWS GOVERNING TERTIARY EDUCATION

11.1   Introduction

This Chapter addresses laws governing Tertiary education in Kenya and makes recommendations for review of these legislations to streamline them to ensure effectiveness and efficiency. It is based on the recognition that though there exists an array of legislative arrangements in the Tertiary Sector, including the Universities Act of 2012, governance challenges have persisted, evidenced by the numerous disputes in the sector, court cases, non-operationalisation of some governance organs Tertiary institutions and delays in the appointments of some office holders due to legislative design.

It is against this background, that the PWPER was mandated to review and recommend legislation to facilitate the amalgamation of HELB, TVET and University Funding Boards with a view of harmonising and merging all tertiary education funding entities.

11.2   Laws Governing the TVET Sector

11.2.1 Global and Regional Context

Globally, the TVET sub-sector comprises multiple stakeholders drawn from the public and private sectors. This calls for a well-coordinated and centralised regulatory entity with a mandate to develop and enforce standards in the sub-sector. A well-coordinated and centralised entity reduces unnecessary conflict between agencies with similar and overlapping mandates and increases efficiency in the delivery of TVET services. Several countries have established Authorities through Acts of Parliament to regulate TVET. For example, in the Philippines, TVET operates within the Technical Education and Skills-Development Act of 1994, which established the Technical Education and Skills-Development Authority (TESDA).

In South Africa, the Department of Higher Education and Training (DHET), which derives its mandate from the Continuing Education and Training Act of 2006, is in charge of TVET. In Ghana, TVET is regulated by the Commission for Technical and Vocational Education and Training (CTVET), established under the Education Regulatory Bodies Act of 2020.

TVET in Malawi is regulated by the Technical, Entrepreneurial and Vocational Education and Training Authority (TEVETA) provided in the TEVETA Act, 1999. The regulator of TVET in Tanzania is the National Council for Technical and Vocational Education and

Training (NACTVET), as provided by the National Council for Technical Education Act of 1997, amended in 2002.

11.2.2 National Context

TVET in Kenya has been undergoing reforms since Independence with the aim of not only enabling sufficient training and development of the required middle-level human resource for economic development but also empowering the youth with skills that will enable them to be self-reliant in society. Several Acts of Parliament embody the legal framework for TVET in Kenya. These include but are not limited to the Technical and Vocational Education and Training Act, 2013; Industrial Training Act, 2012; Kenya Medical Training College Act, 1990 (Revised 2012); Borstal Institutions Act, 1983; Clinical Officers (Training and Licensing) 2017; National Youth Service Act 2018; Nutritionists and Dieticians Act, 2007 (Revised 2012); Medical Laboratory Technicians and Technologists Act, 1999; The Health Records and Information Managers Act, 2016; and various legal orders for line ministries institutions. In addition, there are other laws such as the Kenya Medical Training Colleges Act, 1990 and the Industrial Training Act, 1983 (Revised 2012), which, while creating institutions which should be in the TVET sub-sector, is due to the nature of the organisation of Government operating outside the purview of the sub-sector resulting to overlaps and regulatory incoherence.

The principal legislative framework governing the functioning of TVET in Kenya is the TVET Act No. 29 of 2013. Other policy documents that guide the operations of TVET are Sessional Paper No. 1 of 2019 on Reforming Education and Training in Kenya, National Education Sector Strategic Plan (NESSP) 2018-2022 and Kenya Vision 2030.

11.2.3 Views of Stakeholders on Laws Governing TVET

Some of the issues raised by the stakeholders include:

(i)   Overlapping mandates of Agencies within the TVET space compromise service delivery due to conflicting and competing interests. There is overlap among TVET Act, NITA Act, KNEC Act, KICD Act and KMTC Act. The Acts placed training under different Ministries, compromising quality regulations and controls.

(ii)   Conflicting legislation is confusing and creates confusion in the sector.

(iii)   There is a weak linkage between MoE and other Ministries, Departments and Agencies (MDAs) providing TVET education, leading to regulatory challenges.

(iv)   The TVET Act does not provide a structure for managing the aspects of trainers in the TVET sector.

(v)   Inefficient structures at County levels to manage and finance VTCs.

(vi)   The TVET Act does not give clear guidelines on the governance of the TVET sub-sector.

(vii)   There are ambiguities in the TVET Act, which have led to a conflict of functions among different actors within TVET.

(viii) There is no clear distinction between the role of TVETA and the State Department of Vocational and Technical Education in the TVET Act.

(ix) The functions of the County Director of TVET are not stipulated in the law.

(x)   All TVET institutions, including those under different ministries, e.g., Kenya Railways Training Institute (KRTI), Kenya Institute of Highways and Building Technology (KIHBT) and National Youth Service (NYS), should be under the State Department of TVET.

These views are emphasised in this verbatim excerpt from one of the stakeholders:

> *There is uncoordinated admission of trainees to TVET institutions, especially private ones, coupled with the existence of many legislations, some of which conflict with one another. Therefore, to enhance access and equity in TVET, the Government should adopt the following policies—increase access to Competency-Based Education and Training; and improve coordination of TVET programmes* (RESP11).

11.2.4 Analysis of Laws Governing TVET

11.2.4.1 Technical and Vocational Education and Training Act No. 29 of 2013

(a)   The Functions of TVETA

Section 7(a) of the TVET Act provides for the regulation and coordination of training as a function of TVETA under the TVET Act. However, TVET training also takes place in other Ministries. It is, therefore, limiting to use the words "under this Act"; it is expected that TVETA will regulate all TVET institutions providing training irrespective of the Ministry or the Act establishing such institutions, including professional bodies. Unless this happens, the mandate of TVETA to coordinate training in the sub-sector will not be delivered effectively since most of the training occurs in institutions outside the current purview of the Act.

(b)   TVETA Board

Section 8 (1) provides for the composition of the TVETA board, which includes the Chief Executive of the TVET Fund Board. However, this Fund has been moved to Tertiary Education Placement and Funding Bill; hence we need to remove the TVET Fund Board's Chief Executive from among the TVETA Board members.

(c)   Categories of Institution

Section 26 (1) of the TVET Act provides for the categorisation of institutions under the TVET Act as vocational training centres, technical and vocational colleges, technical trainer colleges, National Polytechnics and other categories as the Cabinet Secretary may specify. However, given that Technical Training Colleges have been converted into Kenya School of TVET, the provision is redundant.

(d)   Employment and transfer of TVET Trainers

Section 28 of the Act sets out the organs of governance of the Technical institutions, whose functions include the employment of trainers. This function has since been transferred to Public Service Commission and is proposed to be moved under the control of the Ministry. The Act should be amended to capture these changes.

(e) Appointment of BOGs for VTCs

Section 28(1)(a) of the TVET Act provides that the Cabinet Secretary for Education shall appoint BoGs for VTCs. However, this provision is unconstitutional as the fourth schedule provides that VTCs are placed under County Governments, and, therefore, the Cabinet Secretary, being an employee of the National Government, cannot perform the functions of the County Government.

(f) Technical and Vocational Education and Training Curriculum Development, Assessment and Certification Council (TVET-CDACC)

TVET-CDACC is established as a body under Section 44 (1) of the TVET Act 2013, whose functions include: To undertake the design and development of curricula for the training institutions' examination, assessment and competence certification and advise the Government on matters related thereto. These matters are also covered as a function under the KICD and KNEC Act hence the duplication of roles between TVET CDACC and KICD for curriculum development and KNEC for assessment.

(g) Programmatic Focus of TVET Institutions

There are four levels of TVET namely VTCs, TVCs, National Polytechnics and Technical Universities. However, Section 26 of the Technical and Vocational Educational and Training Act, lists the categories as VTCs, TVCs, Technical Trainer Colleges and National Polytechnics. The current legal provision on programmatic focus allows each of the levels to offer Certificate Courses resulting in duplication and unhealthy competition.

11.2.4.2 Kenya National Qualification Framework Act

The KNQF Act and the TVET Act have specified what TVETA and the Kenya National Qualification Authority (KNQA) are expected to do with regard to recognition and the equation of qualifications. Under KNQA Act, KNQA is expected to develop a system for the recognition, equation and approval of foreign qualifications, while TVETA is expected to recognise, equate and approve foreign qualifications. However, Regulation 10 of the KNQF Regulations, 2018 provides for recognition, equation and approval of foreign qualifications. This brings duplication and conflicts of functions between the two agencies.

11.3 Laws Governing University Education and Research

11.3.1 Global and Regional Context

At the global level, University education is governed by recommendations, codes of good practice, guidelines and benchmarks, which provide legal frameworks that govern Universities. In addition, bodies such as the OECD, the EU, the World Bank and UNESCO prescribe common practices for University policymakers. Global regulatory governance is thus informed more by soft law and modelling than by legal entrustments.

There are several global conventions ratified by respective countries, which include: The Universal Declaration of Human Rights on the Right to Education (1948);

the International Covenant on Economic, Social and Cultural Rights (1966); the International Covenant on Civil and Political Rights (1966); the Convention on the Elimination of All Forms of Discrimination against Women (1979); the United Nations Declaration on the Rights of Indigenous Peoples (2007) and the Global Convention on the Recognition of Qualifications concerning Higher Education (2019). Additionally, laws governing the University sub-sector globally have been guided through different conventions, protocols and regulations.

11.3.2 National Context

The Universities Act (No. 42 of 2012), enacted in 2012 and amended over the years, created a single regulatory framework for Universities in Kenya, a clear departure from the obtaining situation until every University had its constitutive law.   The Act establishes the Commission for University Education (CUE), Kenya Universities and Colleges Central Placement Service (KUCCPS) and University Funding Board (UFB) as the key national institutions to regulate the sector. The Act also provides for the establishment of Universities and their governance organs, including Chancellors, Vice-Chancellor, University Management Boards, Student Associations, Alumni Associations and staff.

Research within the University sub-sector is legislated under the Science, Technology and Innovation (STI) Act No. 28 of 2013. This Act establishes the National Commission for Science, Technology and Innovation (NACOSTI), the National Research Fund (NRF) and the Kenya National Innovation Agency (KeNIA). In addition, the Higher Education Loans Board (Cap 213 A) establishes the Higher Education Loans Board (HELB).

Some statutory Professional Bodies and Associations operate in the country and regulate the training of their members in the University. They include the Law Society of Kenya, established under Section 3 of the Law Society of Kenya Act CAP. 18; Chartered Institute of Arbitrators Kenya Branch; Chartered Institute of Management Kenya; Kenya Association of Technical Training Institutions (KATTI); Institute of Human Resource Management Kenya (IHRM) established under the Human Resource Management Professionals (HRMP) Act, No. 52 of 2012; Clinical Officers Council established under Clinical Officers Council (Training, Registration and Licensing) Act No. 20 of 2017; Nursing Council of Kenya established under the Nurses Act CAP. 257; Pharmacy and Poisons Board Pharmacy and Poisons Board was established under the Pharmacy and Poisons Act, CAP. 244; Engineers Board of Kenya, Kenya Medical Laboratory Technicians and Technologists Board established under Section 3 of the Medical Laboratory Technicians and Technologists Act, CAP. 253a.; Council of Legal Education established by the Legal Education Act, No. 27 of 2012; Kenya Veterinary Board established by the Veterinary Surgeons and Veterinary Para-Professionals Act No. 29 of 2011; Kenya Nutritionists and Dieticians Institute established by the Nutritionists and Dieticians Act No. 18 of 2007; Kenya Medical Practitioners and Dentists Board established under Medical Practitioners and Dentists Act CAP. 253; the Media Council of Kenya established by the Media Act, CAP. 411B); Institution of Surveyors of Kenya registered as a body corporate under the Societies Act; Architectural Association of Kenya registered under the Societies Act; Marketing

Society of Kenya registered under the Societies Act; Kenya National Association of Private Colleges registered under the Societies Act; Institute of Certified Public Accountants; and Institute of Certified Public Secretaries.

The legal framework allows both the CUE and professional bodies to regulate academic programmes in Kenya. This has resulted in overlaps in the regulatory mandates with several entities regulating academic programmes in Universities in Kenya. This caused challenges to the accreditation process of professional programmes in Universities. This was litigated in Nairobi High Court Petition Nos. 37 (*Kenya Medical Laboratory Technicians and Technologists Board and others Vs The Attorney General);* 49 (*Council of Legal Education Vs the Attorney General)* and 106 (*Engineers Board of Kenya Vs The Attorney General) all* of 2017, which were consolidated into one and judgement issued on 11th June 2020, where the Court declared that CUE has the sole mandate of regulating and accrediting Universities and if there is any conflict with any other law, the provisions of the Universities Act prevails, hence doing away with the issue of overlapping mandate. Despite the court ruling, the professional bodies have been demanding that Universities pay the programme accreditation fee before they accredit professional academic programmes offered by the Universities.

There is an urgent need to amend the respective professional bodies' Acts to align them with the court ruling and avoid multiple payments by and regulations of Universities.

11.3.3 Views from Stakeholders on Laws Governing University Education and Research

(i)   Amend the Universities Act to ensure it does not have further piecemeal amendments.

(ii)   Review other legislations affecting and impacting University education.

(iii) There is a need to clarify the term limits and engage members on rotation to allow for effective succession planning and continuity in the Council's activities.

11.3.4 Analysis of Laws Governing University Education and Research

11.3.4.1 Universities Act

(a) Definition of Terms

The interpretation of some of the terms provided for in the Universities Act is unclear and requires to be reworded for better understanding. In addition, there is a need to include interpretation of other relevant terms for better implementation of the law, to include a definition of Specialised "Degree Awarding Institutions" and "Technical Universities".

(b) Accreditation of academic programmes in Universities in Kenya

Sections 5 and 5A of the Universities Act empower CUE to accredit academic programmes. Similarly, several professional bodies have been mandated to accredit academic programmes in Universities by their respective Acts. This matter was litigated in High Court Petition No. 37 of

2017 (*Kenya Medical Laboratory Technicians and Technologists Board & 5 Others vs the Hon. Attorney General*). Judgement was delivered, and the Court ordered that accreditation of University programmes was the sole responsibility of CUE.

(c) Appointment of Chancellor of a Public University

The Second Schedule of the Universities Act provides that Public Service Commission is involved in shortlisting and identifying three suitable candidates, ranked in order of merit in the appointment of a Chancellor of a public University. However, the law does not also provide timelines for the appointment of the Chancellor. These provisions have led to problems since most people who would qualify to become chancellors do not want to apply and be subjected to interviews due to the honorary status of the position. In addition, the lengthy process has also led to numerous Universities operating without Chancellors for a long time, impacting their governance negatively.

(d) Qualification for Appointment of a Chancellor

Section 38 (4) of the Universities Act provides that a person shall only be appointed as a Chancellor where a person is a person of high moral character and integrity in accordance with Chapter Six of the Constitution. The law does not provide for academic qualifications for the Chancellor even though a key function of the Chancellor is academic in nature, conferring degrees and other academic qualifications on graduates.

(e) Appointment of Council Members of Public Universities

Section 36 of the Universities Act provides for the appointment of council members of a public University. It is envisaged that the appointment of the five members appointed by the Cabinet Secretary is through an open process prescribed in guidelines to be issued by the Cabinet Secretary. However, the regulations have never been put in place. Consequently, there is a lack of an objective process on how the appointment is undertaken, an issue that has led to challenges and complaints about both the calibre and manner in which Councils are constituted.

(f) Qualification of Chairperson of Council

Section 36 (2) of the Universities Act provides that the chairperson of a Council is to be a PhD holder and a member of the Council to be a Master's degree holder. These provisions have the effect of limiting governance of Universities to only PhD holders at the Council Chairperson level despite the fact that the main role of the holder of the office is managerial and not academic.

(g) Appointment of a Vice-Chancellor, Deputy Vice-Chancellors, Principals, and Deputy Principals

Section 35 (1) (a) (v) of the Universities Act provides that the appointment of Vice-Chancellor, Deputy Vice-Chancellors and Principals and Deputy Principals of Constituent Colleges in public Universities shall be by the Council in consultation with the Cabinet Secretary after a competitive

process conducted by the Public Service Commission. On the other hand, Section 39 (1) of the Act provides that the Vice-Chancellor of a public University shall be appointed by the Cabinet Secretary on the recommendation of the Council after a competitive recruitment process conducted by the Council. These two Sections contradict each other.

(h) Universities in Counties

Section 26 of the Universities Act provides that Commission for University Education shall ensure the establishment of public Universities in each of the Counties, giving priority to counties that do not have Universities. This provision contradicts Section 13(2) of the Universities Act, which places the responsibility of seeking to establish a University to an applicant who intends to establish a University. The applicant is ordinarily the sponsor of the University. In this case, the Government becomes the sponsor. Hence the responsibility of seeking to establish a University lies with the Government. Commission for University Education, as a regulator, process the application for quality assurance.

(i) Merger, Conversion and Amalgamation of Universities

From the global and regional situational analysis, countries have reacted to challenges facing Universities in modern times by taking radical restructuring measures. Key measures taken are merger, conversion and amalgamation of Universities. For example, in the US between 2018 and 2022, 95 college mergers took place, putting it at 21% more than the previous 18-year period. In Greece in 2009, the Greek Government took steps to reduce the number of higher education institutions, while in China, in 1992, the Chinese Government launched a series of reform initiatives to restructure its higher education system. South Africa began a radical restructuring of the higher education sector, which saw the number of Universities cut from 36 to 23 through incorporations and mergers, some creating huge Universities. The Universities Act does not provide for merger, conversion and amalgamation. Stakeholders recommend that a legislative framework be put in place to enable the Government, where need be, to undertake the merger, conversion and amalgamation of two or more public Universities to make a public University college, a campus of another University and the closure of a public University or public Universities colleges.

(j) Award of Diploma and Certificates by Universities

Section 20(1) (e) (ii) & (iii) of the Universities Act provides that a University may award diplomas and certificates. PWPER, in its analysis of Tertiary education, realised that Universities and TVET sector, despite being in the same subsector, compete for students for these courses. This creates a contradiction between Section 20(1) (e) (ii) & (iii) of the Universities Act and Section 26 (1) of the TVET Act. This has also led to duplication, ambiguities, efficiency constraints and weak linkages between Universities and TVET. Therefore, the Universities Act needs to be amended to

streamline effectiveness and efficiency in the subsector. In addition, the amendments should ensure improved access by providing a seamless pathway to degree completion, allowing students to accumulate credits for individual modules or units of study completed at a TVET institution and transfer them to a University degree program.

11.3.4.2 Science, Technology and Innovation Act

(a) Licensing of Research

Section 12 (3) of the Science, Technology and Innovation (STI) Act provides that any person undertaking or intending to undertake research in Science and Technology in the country or who accesses, handles, or transfers any material or technology or moves it within, from or into the country, shall apply to the National Commission for Science, Technology and Innovation (NACOSTI) for the grant of a license in accordance with the Act. Universities are required to pay licensing research fees payable to NACOSTI despite the fact that research is a key mandate of Universities.

(b) Innovation

The STI Act provides for the establishment of NACOSTI, NRF and KeNIA; however, under Executive Order No. 1 of 2022, KeNIA now falls under the Ministry of Youth, Sports and Arts, which calls for a comprehensive review of legislation.

(c) Research Governance

Currently, research in the country is fragmented and lacks coordinated leadership. While the State Department under the Ministry of Education is titled Universities and Research, its mandate is limited to research undertaken in Universities. This is despite the fact that there are many research institutions outside the purview of the state department and Ministry. Examples include the Kenya Medical Research Institute, Kenya Agricultural and Livestock Research Organisation, Kenya Marine Fisheries Institute, Coffee Research Stations and Institute of Primate Research. The lack of comprehensive coordination and regulation of the research sub-sector limits research outputs and their contribution to national development.

(d) Funding of Research and Innovation

Currently, Section 32(2)(a) of the Act requires the Government to allocate 2% of the GDP to research every year. However, the annual allocation is less than this requirement. In addition, the Act does not provide a framework for distribution of the allocated sum among Universities, TVETs and Research Institutions.

11.4 Amalgamation of HELB, UFB AND TVETF

Financing Tertiary education is partly done by the Government and the households on the other part. Government financing is done through different Institutions, namely, Higher Education Loans Board (HELB), the Universities Fund (UF) and the Technical and

Vocational Education Training Fund (TVETF). In TVET institutions government contributes Ksh. 30,000, and the household contributes Ksh. 26,420. In addition, the household caters for field courses, examination fees and living expenses for the trainees. TVET trainees have the option of applying for HELB loans and seeking other funding opportunities to cater for the living expenses and to support the household contribution.

The financing system in Tertiary Education is scattered within three pieces of legislation: Universities Act, No. 42 of 2012, where the University Funding Board and KUCCPS are established; Technical and Vocational Education and Training Act, No. 29 of 2013, where the TVET Fund is established and the Higher Education Loans Board Act CAP 213A, which establishes Higher Education Loans Management Board (commonly referred to as HELB).

HELB's mandate is to manage a fund to provide loans to Kenyan students in higher education within and outside Kenya. It administers Student loans, Bursaries and Scholarships, thus funding needy Kenyan students pursuing higher education in institutions of higher learning in and outside Kenya that CUE and TVETA recognise. HELB also recovers the funds loaned to create a National Revolving Fund.

HELB administers student loans at an interest rate of 4% p.a. for undergraduate and TVET students whose repayment is deferred until after graduation. It also funds the salaried undergraduate and postgraduate students who repay the loans as they study through the Jielimishe Loan product at 10% p.a. It also partners with various private and public organisations to administer student loans, bursaries, and scholarship funds.

Student loans, bursaries and scholarships are awarded through approved criteria and Means Testing Instruments (MTI) that ensure access, equity, inclusivity and affirmative action. In addition, there is preferential funding for students studying courses related to Science, Technology, Engineering, Mathematics, and Innovation (STEMI) and other approved Government development plans.

The Technical and Vocation Education Fund (TVEF) was established to provide funds for financing technical and vocational education institutions; disburse funds to institutions in accordance with criteria prescribed by the Cabinet Secretary, taking into account the respective institution's output, efficiency and role in areas prioritised by the Government; and establish the maximum differentiated unit cost for the programmes offered and discipline differentiated remuneration for academic staff.

The Universities Fund introduced the Differentiated Unit Cost (DUC) in FY 2017/18 as a funding model for Universities based on the number of government-sponsored students (GSS) enrolled and their respective clusters of undergraduate programs. A report of the sub-committee of Vice Chancellors on Unit Cost of Tuition of 2016 proposed that the Government finances 80% of the DUC with the remaining 20% met by the students and Universities in equal proportion.

The TVEF and UF provide capitation to the institutions, while HELB focuses on student financing.

Despite the above legislative and institutional framework for public financing of

Tertiary education, the country continues to face challenges, including:

(i)   TVET funding board has never been operationalised, thus disadvantaging the students in TVET institutions.

(ii)   Diploma students admitted to Universities are not funded because of the confusion about who is responsible.

(iii)   Graduate students are not funded.

(iv)   There is no coordinated way of disbursing financial support to the students, which is subject to abuse, particularly when students change programmes or Universities.

(v)   High administrative costs are incurred in maintaining several entities.

In order to overcome these challenges and ensure effective and efficient management of funding in Tertiary education, the PWPER was tasked to review and recommend legislation to facilitate the amalgamation of HELB, TVETF and University Funding Board with a view of harmonising and merging all Tertiary education funding entities.

11.5   Conclusion and Recommendations

11.5.1 Conclusion

Globally, the TVET sector is regulated by a central body. However, in Kenya, several bodies in various Ministries, Departments and Agencies (MDAs) created by Acts of Parliament regulate TVET. This has contributed to a multiplicity of standards and qualifications as well as overlaps in the mandate, which render it difficult to regulate the quality of training effectively.

The Governance of Universities is marked by several contradictions, overlaps and ambiguities. The implementation of the Universities Act has revealed these challenges, as evidenced by the numerous legal challenges in Courts. The appointment of key governance organs has either been delayed or contested due to these legal loopholes and obstacles. In addition, while the regulation of Universities in Kenya is principally made by the Commission for University Education, several other bodies also have legal accredited programmes within Universities, especially those registered by professional bodies. This has caused duplication of roles. Despite court rulings and advisory by the Attorney General to ensure coherence by clarifying that CUE has the sole responsibility, these duplications persist, leading to inefficiency.

In Kenya, the research focus is divided between research in Universities and outside Universities. Therefore, there is a need for more comprehensive and strengthened research governance in Kenya to improve its outputs and contribution to the national agenda.

Despite the TVET sector playing a critical role in national development, the institutions established under TVETA Act have suffered legislative challenges, including the non-operationalising of some and past attempts to merge or disband others. There is also a duplication of mandates between TVET CDACC and KICD on curriculum development and KNEC on assessment. The other legislative challenge relates to the overlaps between the TVET Act and the Industrial Training Act; and the lack of linkages in the regulation and governance of VTCs and TVCs.

On funding, the existence of three funding agencies, HELB, UFB and TVETF, has led to duplication and inefficiency. These entities support the same stakeholders. Merging the three agencies has important advantages. One, it will enhance accountability in funding students and degree programmes discussed above. It will indeed ensure enhanced funding for students. Two, it will harmonise the operations of the three agencies and enable them to deliver a 'funding mandate' as one. Merging the three institutions will reduce duplication of efforts and indeed curb the wastage of resources that attends to inefficiencies where mandates and functions overlap. The proposed merger will certainly reduce operating costs for running three different agencies. The merger will also lead to evidence-based decision-making in funding higher education, with each agency contributing its experience and evidence to a coordinated process.

The inclusion of KUCCPs within the same legislative framework as the merged entities will ensure that there is greater coherence in the implementation of the new funding model in the higher education sector and, secondly, remove the current legislative incoherence where KUCCPs are supposed to support both TVET and Universities sub-sectors but is anchored in the law for Universities only with no reference in the TVET Act.

11.5.2   Recommendations on Laws Governing Tertiary Education

1.   Amend the TVET Act as follows:

   (a)   Section 7 (a) by deleting the words "and coordinate;"

   (b)   Section 7 (d) by deleting the word "determine" and replace with "promote";

   (c)   Delete Section 8 (1) (d);

   (d)   Section 26 (1)(b) and (d); by deleting the words "up to" and replacing them with the words "Diploma and" to ensure Artisan Certificates are offered only at VTCs.

   (e)   Delete Section 26 (1) (c);

   (f)   Amend Section 29 by deleting paragraph (l) and replacing with a substantive provision providing for the establishment of the Intergovernmental Technical Trainers Service Council to employ, transfer, promote and remunerate all technical trainers except those employed by TSC to teach in Basic Education.

   (g)   To establish the Kenya School of TVET and provide for its decentralization to regions.

   (h)   Delete Section 28 (1) (a).

2.   Delete Section 4 (d) (viii) of the KICD Act and Section 10 (1) (a) of the KNEC Act to transfer the curriculum and assessment functions to TVET CDACC.

3.   Repeal the Industrial Training Act and merge the National Industrial Training Authority (NITA) with TVET CDACC.

4.   Transfer the training levy function from NITA to the proposed amalgamated funding body i.e. Tertiary Education Placement and Funding Board.

5. Amend the Universities Act as follows:
   (a) Section 2 to include definition of "Specialised Degree Awarding Institutions".
   (b) Section 20 (1) (e) (ii) to delete the word diploma and delete Section 20 (e) (iii) to restrict Universities from offering certificates and ordinary diplomas.
   (c) Section 25 (2) by adding the words "or was previously" to enable former National Polytechnics to qualify to become Technical Universities. Include a transitional clause to enable the re-charting of the Technical University of Kenya (TUK) and Technical University of Mombasa (TUM) under this provision.
   (d) Delete Section 26 providing for the establishment of a University in every county.
   (e) The Second Schedule to provide for the process of identification of Chancellors through a selection Panel constituted by Cabinet Secretary to recommend three nominees, one of whom will be considered for appointment by the President.
   (f) Section 35 (1) (a) (v) to exclude the PSC from the process of appointment and provide for competitive recruitment by council who will submit three names to the Cabinet Secretary for appointment of a Vice Chancellor, Deputy Vice Chancellors and Principals and Deputy Principals of Constituent Colleges.
   (g) Section 36 (1) (d) to delete the phrase "through an open process in such a manner as may be prescribed in guidelines issued by the Cabinet Secretary"
   (h) Insert Section 36(1B) to read "in the case of appointment of council members, the Cabinet Secretary shall constitute a selection panel to identify and make recommendations to the Cabinet Secretary on qualified and suitable persons for consideration and appointment as Chairperson and Council Members in line with Section 36 (3) of the Act.
   (i) Section 36 (2) to reduce the minimum qualification of chairperson of council from a doctorate degree holder to a master's degree holder with at least 10 years experience in management
   (j) Section 38 (4) to include the requirement that the Chancellor must be a holder of an earned PhD and have had a distinguished career in public or private sector.
   (k) Insert a new Section on Merger, Conversion and Amalgamation of Universities.
   (l) Second Schedule to replace PSC with the council.
6. To remove overlap in accreditation of academic programmes in Universities and to comply with court judgement prohibiting professional bodies from charging levies and engaging in accreditation of programmes in Universities. Amend the following laws:
   (a) Section 7 (1) (i) (m) of the Engineers Act 2011, No. 3 of 2012;
   (b) Section 5 (1) and 5(2) (a) — (e) of the Medical Laboratory Technicians and Technologists Act, CAP. 253a;
   (c) Section 8 (1) (a) and 8 (4) of the Legal Education Act, No. 27 of 2012;

(d)   Section 13 (1) of the Advocates Act;

(e)   Section 6(1), 7(1) and 7(2) (a) of the Veterinary Surgeons and Veterinary Para-Professionals Act No. 29 of 2011;

(f)   Section 6 (d) of the Nutritionists and Dieticians Act No. 18 of 2007;

(g)   Section 4 (1) (b) (c) and (f) of the Medical Practitioners and Dentists Act CAP. 253; and

(h)   Section 4 (g) of the Media Act, CAP. 411B.

7.   Section 12 (3) of the STI Act to exclude Universities from paying license research fee.

8.   Amend Section 33 of the STI Act to provide for a framework for distributing the 2% of the Research Fund to the TVETs, Universities and Research Institutions.

9.   Undertake a more comprehensive review of legislation on Intellectual Property & Innovation

10.   Develop a comprehensive legislation governing research governance in the country and establishing and establishing a National Research Council (NRC) with a director general and under the coordination of the office of the President. The Act should also provide for directors responsible for specific functions.

11.   To provide for the amalgamation of all tertiary funding bodies:

(a)   Repeal the HELB Act;

(b)   Delete the Part VII (KUCCPS) and VIII (UFB) of the Universities Act and Part IX (TVETFB) of the TVET Act;

(c)   Develop the Tertiary Education Placement and Funding Bill *(Attachment 4 in   Appendix 11.1)* establishing the Tertiary Education Placement and Funding Board with KUCCPS, HELB, UFB and TVETFB as directorates. This will create a strong agency to fund students at the tertiary level of education and to ensure coherence between funding and placement; and

(d)   Transfer the training levies functions from the ITA Act and the Tourism Act to the proposed Tertiary Education Placement and Funding Bill.

For detailed outline of the amendments, *Appendix 11.1*

CHAPTER TWELVE

CROSS-CUTTING, PERTINENT AND CONTEMPORARY ISSUES IN EDUCATION

12.1 Introduction

The rationale for the Presidential Working Party on Education Reform (PWPER) to include Cross-Cutting, Pertinent and Contemporary Issues (CPCIs) in Education as part of its Terms of Reference (ToRs) was informed by the recognition that challenges and priorities in education and training globally and nationally, have changed over the last few years. The dynamism of education needs will continue shifting because of the rapidly evolving socio-economic environment, the impact of globalisation, technological changes and the Fourth Industrial Revolution in general. The COVID-19 pandemic also ushered in new shifts and unprecedented developments in education delivery globally.

Moreover, there is general acknowledgement and appreciation of the role played by education in upholding the fundamental rights of children and youth, and protecting them from all forms of abuse and exposure to harmful cultural, social and economic practices (Basic Education Act, 2013; Children Act, 2022). In addition, Tertiary institutions are facing pertinent issues that have not been addressed comprehensively, despite the sector's importance in the development of human capital necessary for the attainment of national goals of education and the Kenya Vision 2030.

The overall philosophy of transforming education and training for sustainable development in Kenya has guided the PWPER to examine how various factors and key socio-economic developments impact education. In addition, the sectors' guiding principles, such as the promotion of innovation, inventiveness, creativity, technology transfer and entrepreneurial culture, are shaping the context of education in a manner worthy of attention (Republic of Kenya, 2019).

This chapter discusses how contemporary issues affect the provision of education. In particular, the discussion focuses on the following:

- Promoting Education for Sustainable Development (ESD);
- Strengthening of STEM Education;
- Promoting Internationalisation of University Education;
- Mainstreaming of Indigenous Knowledge;
- Leveraging Social Media for Youth Employability;

- Reducing School Violence, Radicalisation, Extremism, Alcohol, Drugs and Substance Abuse, Child Labour, Teenage Pregnancies and other Inhibitive Cultural Practices;
- Promoting Mental Health; and
- Promoting Disaster and Emergency Preparedness and Management.

12.2 Global and Regional Context

OECD (2019) observes that on a global scale, educational planners, policy makers, managers and stakeholders are grappling with emerging challenges owing to the rapidly evolving legal, technological, social, cultural and economic environment. For example, in 2021, the National Centre for Education Statistics (NCEC) observed that the emergence of the coronavirus (COVID-19) pandemic brought major disruptions to education at all levels. The traditional structure, which typically emphasises an interactive classroom environment, saw widespread transitions to online education programs to mitigate the spread of the disease. Moreover, cases of sexual assault, the burden of student loan debt, mass shootings of students and teachers in schools, bullying, racism and mental health challenges are serious problems on campuses and schools in the USA. As a result, various States compelled learning institutions to review their policies to address the emerging issues continually.

In addition, governments all over the world today are keen on promoting Science, Technology, Engineering and Mathematics (STEM) education. An educated, skilled and knowledgeable workforce in STEM should be able to undertake research and generate new knowledge and technology for the nation-building agenda. The African Union Agenda, 2063 is underpinned by Science, technology and innovation as an enabler for achieving continental development. The African Union also adopted the Science, Technology and Innovation Strategy for Africa (STISA-2024). Eleyyan (2021) notes that the Fourth Industrial Revolution (IR 4.0) includes Science and technologies such as the Internet of Things, Cloud Computing, Big Data Analytics, Blockchain, Artificial Intelligence (AI) and Robotics. These technologies are predicted to have a major impact on the achievement of the 2030 SDGs and are set to be the key skills for future jobs and careers in the next decade and beyond.

On Climate change, the United Nations Climate Change Conference (COP 27), 2022, noted that the world is in a critical decade for climate action and required all countries to make concrete pledges to address the crisis as required by the UN Framework Convention on Climate Change and the Paris Agreement. The consequences of climate change include intense droughts, water scarcity, severe fires, rising sea levels, flooding, storms and declining biodiversity. Furthermore, as climate change accelerates, millions of people are likely to be deprived of access to water and millions more may be displaced and others forced to migrate (climate refugees). In addition, it was predicted that there would be sharp rises in the death toll from climate-induced diseases (Commonwealth Foundation, 2007). The Developing countries are the least responsible for climate change, yet the most at risk from its effects.

The internationalisation of University education is another key emerging global issue in Higher Education. OECD (2021) indicates that during the past half-Century, developing an internationalised educational system within developed countries like

the USA, Canada and the UK has evolved from a marginal activity to a key aspect of the reform agenda. Furthermore, the accelerating rate of globalisation has focused attention on student mobility, international research collaboration and education as an export industry, emerging as a key issue in Universities across the globe.

These emerging realities on student mobility provide unique opportunities for countries to enrich their cultural, intellectual and economic engagement with their neighbours. The in-flow of students makes a substantial economic contribution to the country receiving the students. For example, Australia is one of the top destinations for international students from all over the world. According to the annual report of the OECD (2022), international students make up 26% of all Tertiary enrolment in Australia. Available data reveal that the inflow of students from the West and Asia to Africa is negligible, reflecting a global perception that the quality of education in African Universities is low and unattractive.

Indigenous knowledge systems are the pillars of human culture that are closely linked to global sustainability. The United Nations Declaration on the Rights of Indigenous Peoples (2007) recognises Indigenous Knowledge (IK) ownership and validates traditional practices as contributors to "sustainable and equitable development and proper management of the environment." The Convention on Biological Diversity also underscores the importance of indigenous knowledge in conserving biodiversity and ensuring sustainable development.

Research indicates that in diverse locales (e.g. forest management in India, rubber production in South America, controlled fires in the Philippines), State officials are now relying upon Indigenous peoples to use traditional knowledge to identify and prevent future environmental threats (Ellen et al., 2000). Marginalised communities collaborate with archaeologists in Amazonia, Bolivia, Colombia, and elsewhere to re-assert their identities and reframe problematic State representations of their past (Gnecco & Ayala, 2011).

Since indigenous knowledge is the knowledge that arises directly out of the community's real-life experiences, its incorporation into the school curriculum can motivate and raise the intellectual fortunes and interests of the learners as students realise that recognition is given to what they already do, know, and say in their communities (Woolman, 2001).

12.3 National Context

Various policies, educational research reports and institutional needs assessment reports articulate that learners across all levels of education, irrespective of their age, are faced with contemporary lifestyle issues that necessitate the development of age-appropriate social competencies and skills through education and training. In particular, the Sessional Paper No. 1 of 2019 emphasises that learners have issues ranging from violence, drug and substance abuse, media influence in these times of technological advancement, and political and social scenarios that influence their lives (Republic of Kenya, 2015). These issues can potentially affect the learner's psychosocial well-being and limit their access and retention in education, responsible co-existence and ultimately, the learners' advancement in the world of work (KICD, 2017).

The Constitution (Article 53) recognises the right of all children to be protected from abuse, neglect, harmful cultural practices, all forms of violence, inhumane treatment and punishment, and hazardous or exploitative labour. Further, Article 10 (2d) describes sustainable development as a national value, while Article 42 and 69 makes it an obligation for the government and the citizens to protect the environment (GoK, 2010). Other cross-cutting issues like STEM, health issues and drug abuse are also emphasised in the Kenya Vision 2030. Mainstreaming of these Pertinent and Contemporary Issues (PCIs) is one of the major initiatives in the curriculum reform process in Kenya.

Correspondingly, the Tertiary sub-sector that caters for the majority of the youth (18-24 years) in Kenya has been grappling with issues of graduate employability, negative and positive social media influence, cyber crimes, alcohol, drugs and substance abuse, mental health challenges; Sexual and gender-based violence, increase in crime, low completion/graduation rates, low uptake of STEM education, and entrepreneurial education and training. Other emerging issues include the Internationalisation of Universities and the infusion of indigenous knowledge in the curriculum.

Studies show that the increasing cost of higher education and economic hardships have exacerbated the social challenges students in colleges and Universities face. In addition, campus closures due to student protests or strikes by faculty have also been cited as pertinent issues that negatively impact the standards of education and the overall international reputation of the Kenyan higher education system (Yakabok & Birnbaum, 2013).

(a) Education for Sustainable Development

The main goal of promoting Education for Sustainable Development (ESD) is to reorient education and learning to enable learners to acquire values, skills, attitudes and knowledge to empower them to contribute to sustainable development. Accordingly, the MoE developed the Education for Sustainable Development Policy (2017) that incorporates key themes of sustainable development, such as poverty alleviation, human rights, gender equality, innovation, health and environmental protection and climate change into the Kenyan education system. This seeks to implement SDG4.

The main challenges of implementing ESD in Kenya include the concept of ESD is not fully understood. There is a lack of full understanding or inadequate capacity to provide ESD, limited research, innovation, and the disconnect between ESD research and the needs of the industry.

(b) Combating the Impact of Climate Change

Taking action to combat climate change and its impact is one of the Sustainable Development Goals (Goal 13), and a global commitment under international climate conventions to achieve this desire, Kenya has developed a Carbon Credit Trading and Benefit Sharing Bill, which urgency has been captured in the Climate Change Act of 2016. The education policy calls for mainstreaming climate change adaptation into education and training that entails a systemic approach in which the sector plans,

programmes, curriculum and the teaching materials such as textbooks are looked at through the lens of climate change.

Kenya is currently exploring its carbon credit revenue potential, intending to become a global carbon credits market leader. During the launch of the African Carbon Markets Initiative (ACMI) at The 27th annual UN climate conference in Sharm El-Sheik, Egypt (2022), His Excellency President Dr William Ruto reiterated that the carbon credits market should benefit communities fighting the adverse effects of climate change and pointed out that the beneficial impact of the nascent carbon credit regime holds tremendous promise for Kenya, through the projected generation of more than 30 million tonnes of carbon credits annually, earning incomes and creating green jobs for the youth.

> *These resources would accelerate landscape restoration, expansion of forest cover, tree growing, clean cooking and agroforestry, His Excellency President Dr William Ruto.*

Through the growing of trees and other sustainable agricultural practices, institutions of learning can trade with carbon credits, thus generating income for school development and contribute to the achievement of the targetted 30% tree cover in Kenya by 2030.

(c) Strengthening of STEM Education

Repackaging STEM in Education and Training is one of the flagship projects under Kenya Vision 2030. The project is expected to promote experiential learning, innovation, creativity and attraction to STEM-related disciplines through well-coordinated programmes in Education, Training, Research, development and innovation and all aspects of Science, Technology and Innovation at all levels of education starting from Early Childhood to University.

The Sessional Paper No. 1 of 2019 indicates that the Ministry of Education is responsible for ensuring that all learners acquire a fundamental level of STEM literacy that enables them to engage with and succeed in the rapidly changing world. Additionally, it also needs to ensure that there is adequate skilled labour for STEM fields. Under the 2-6-3-3-3 system, building foundational STEM knowledge needs to start from Early Childhood and continue throughout Primary, Secondary and Tertiary levels. Further, MoE upgraded two Secondary Schools in each of the 47 counties to serve as STEM model schools and centres of excellence in creativity and innovation at the county level.

However, there are persisting challenges in promoting access, quality and relevance in STEM education, such as inadequate level of resourcing with respect to staffing and infrastructure. For example, over 70% of public Secondary Schools are poorly equipped and lack resources to establish standard laboratories (MoE, 2019); there is insufficient number of qualified teachers in STEM subjects; poor pedagogical practices persist, leading to low performance and achievement levels in all STEM subjects and low enrolments in STEM-related courses, especially among girls, in TVET and Universities, coupled with the high cost of delivering STEM-related courses. There is also low STEM

research and innovation output from Universities and research institutions (NESSP, 2018). If not addressed, these challenges may hamper the successful implementation of STEM Pathway in Senior Secondary Schools, which has a projected intake of at least 60% of learners transiting from Junior Secondary Schools.

(d) Internationalisation of Kenya's University Education

Contemporary higher education in Kenya is being globalised in response to several emerging trends, such as the flow of students seeking education across various countries, as well as cross-border collaborations among institutions. The process is usually anchored on policies such as those targeting the recruitment of international students, collaboration with global academic institutions, the inclusion of international components in the curriculum and scholars working abroad. However, Kenya does not have national policies or frameworks on internationalisation. As a result, some higher education institutions, including The University of Nairobi, Kenyatta University and USIU, have developed their own internationalisation strategies, often focusing on international student recruitment. As a result, the lack of internationalisation has limited Kenya's competitiveness and attraction of international students.

(e) Mainstreaming of Indigenous Knowledge in Education

The potential of applying indigenous knowledge in sustainable development is recognised and protected in Kenya. Article 11 (2) (a) of the Constitution provides that the State should "promote all forms of natural and cultural expressions through Literature, Science, communication, libraries and other cultural heritage"; while Article 11(2)(b) and (c) require the State to "recognise the role of Science and indigenous technologies in the development of the nation, and to promote the intellectual property rights of the people of Kenya". The GoK enacted the Protection of Traditional Knowledge and Cultural Expressions Act, 2016, which provides for the recognition and protection of traditional knowledge and cultural expressions.

Indigenous knowledge in basic education has been mainstreamed in learning areas from Upper Primary to Senior School through the integration of General History of Africa (GHA). These aspects include African material and immaterial culture that have contributed to modern civilisation and humanity. However, the curriculum support materials for teachers, such as handbooks and training guides, have not been developed. Additionally, the teachers have not been oriented on the integration of GHA in the curriculum in the formal, non-formal and informal dimensions of learning.

Universities and TVETs in Kenya can leverage Indigenous Knowledge and Technology Systems to attract international Students. Indigenous knowledge and technology include traditional processes and systems for transforming naturally occurring resources into the goods and services needed by society, such as food, medicine, housing, infrastructure, cosmetics, and entertainment, in a sustainable way. Properly conceived academic programs based on Indigenous Knowledge and Technologies can attract international students from developed countries to Universities in Kenya and enable the local Universities to open up new revenue streams.

(f) Leveraging Social Media for Students' Employability Skills

Social media has become the youths' lifestyle, and it keeps them up to date on the events happening around the world and allows for networking, socialising and making

new friends. This leads to more employment, marketing and business opportunities being opened up. However, many cases of abuse and misuse of social media platforms, including cyber theft and bullying, trolling, defamation, fake news, radicalisation, harmful sites, peer pressure and general flouting of media laws and ethics are rampant in Kenya. Therefore, the education and training curriculum should equip the youth with relevant entrepreneurial and soft skills necessary for harnessing opportunities in the social media spaces while guiding and advising them on their negative impact.

If these challenges were addressed, the potential of social media to contribute to employment opportunities for the youth would increase. That is, Kenya has the potential to reap a demographic dividend by leveraging social media and the general digital explosion that currently puts the country among the top techno-savvy nations in Africa. The Kenya Institute for Public Policy Research and Analysis (KIPPRA) Report 2022 indicates that the uptake of social media, especially by the youth, has increased exponentially in the last 10 years. As of July 2022, there were 11.8 million active social media users in Kenya compared to 3.6 million users in 2014, as shown in Figure 12.1.
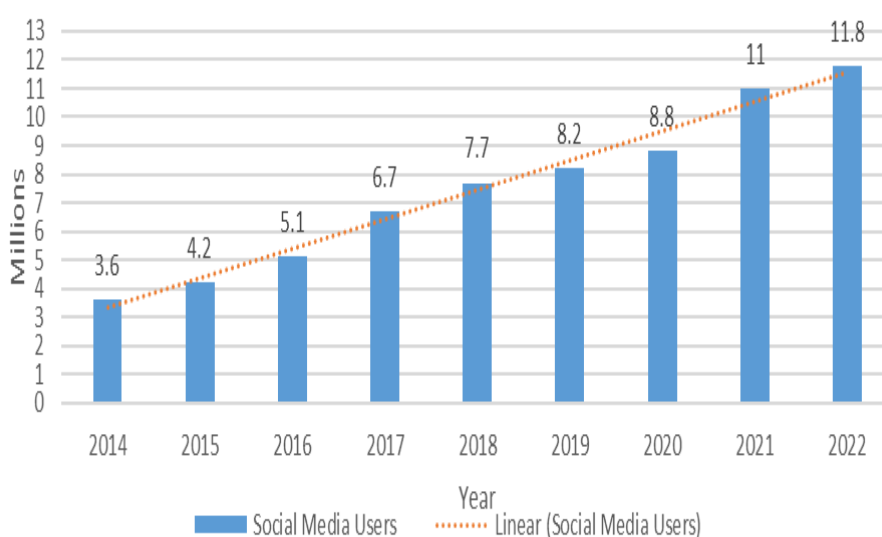
Fig. 12.1: Social media users in Kenya (2014-2022) (Source: KIPPRA, 2022)

Given the rise in social media applications, content creation has increased on social media platforms preferred mostly by youth, such as *YouTube, Snapchat*, *TikTok*, *Instagram*, *Facebook, Twitter* and *LinkedIn*. Through content monetisation, the youth are able to gain revenue from their social media audiences, subscribers, or third parties that market products through the platforms (KIPPRA, 2022). Other emerging careers in social media include brand ambassadors, remote working, doing audio and video transcribing, academic writing, research and online marketing. Therefore, access to appropriate information and skills could improve and advance the chances for students to know which employability skills are required in the labour market.

(g) Negative Societal Trends and Consequences

    (i)   **School Violence:** Recently, Kenya experienced several forms of violence in learning institutions. Student unrest and strikes have been perennial

occurrences resulting in the wanton destruction of property, loss of life and, subsequently, closure of learning institutions. In addition, over the years, school fires have been caused mainly by students going on a rampage and setting structures ablaze.

(ii) Gender-Based Violence (GBV): There has been several reported cases of physical, sexual or emotional harm based on gender in learning institutions. Any form of GBV negatively affects learning and infringes on the learner's fundamental right to education and a safe learning environment. The Rapid Assessment on Gender-Based Violence in Schools Report (2016) indicates that 70.8% of teachers interviewed stated there had been incidences of GBV in their respective schools in the previous three years. Specifically, the report noted that the forms of GBV in schools included bullying, rape, attempted rape, verbal abuse, corporal punishment, defilement, sexual harassment, sodomy, pornography and cyber-bullying. The report further indicated that some perpetrators included teaching staff, learners, non-teaching staff, community members, parents and relatives.

(iii) New Forms of Violence in Schools include the emergence of criminal gangs, extreme ethnic violence, religious-based radicalisation, cyber-bullying and extremism. School children and youth in Tertiary institutions are increasingly targeted due to their vulnerability, poverty and other cultural and religious factors. For example, on 2 April 2015, gunmen stormed the Garissa University College, killing 148 people (142 were students) and injuring 79 more. The militant groups took over 700 students, hostage.

(iv) Alcohol, Drugs and Substance Abuse (ADSA): remains one of the major problems confronting young people in Kenya today. According to the situation 2012 Rapid Assessment of Drugs and Substance Abuse NACADA in Kenya, about 18% of adolescents aged 15-17 reported ever using any drug or substance, including tobacco, Khat (*Miraa*), narcotics and inhalants and about 11% of reported ever using alcohol. Findings of a National Survey on the Status of Alcohol and Drug Abuse among Primary School Pupils in Kenya conducted by NACADA in 2018 put the average age of onset of at least one drug or substance abuse at 11 years. The common sources of alcohol and drugs, included kiosks or shops near schools, bars near schools, student traffickers and school workers. The situation of ADSA abuse in Kenya indicates an alarming trend, given the young age of the learners affected. It may continue to escalate unless comprehensive strategies to prevent and mitigate it are put in place. MoE, in collaboration with NACADA, developed the National Guidelines for Alcohol and Substance Use Prevention and Management in 2021. In addition, the TVETs and Universities in Kenya have continually reviewed their internal policies to manage and mitigate the ever-rising challenge of ADSA among the youth in their institutions. However, despite the need for services to address substance abuse, very few drug rehabilitation programs and counselling centres are available for adolescents in Kenya, and these tend to be urban-based.

(v) Teenage/Early Pregnancy: Teenage pregnancy is a worrying trend, with statistics indicating that one in every five girls in schools between 15-19 years of age has been exposed to sexual activities and begun childbearing. Early pregnancy is the main reason for school drop-out of adolescent girls. Also, it exposes young girls to health-related challenges, including mortality and morbidity due to birth-related complications and unsafe abortions. The 2015/16 Kenya Integrated Household and Budget Survey estimated that close to a quarter of a million adolescent girls in Kenya aged between 10 and 19 years became pregnant between July 2016 and June 2017. The situation is alarming in some counties like Narok and Homa Bay, with a high prevalence of teenage pregnancies that was exacerbated by the effects of the COVID-19 pandemic.

(vi) Harmful Cultural Practices: Section 23 (1) (a) of the Children Act, 2022 Protects children from harmful cultural practices such as female genital mutilation; child marriage; virginity testing; girl child beading; except with the advice of a medical geneticist, organ change or removal in case of an intersex child; or any other cultural or religious rite, custom or practice that is likely to negatively affect the child's life, health, social well being, dignity, physical, emotional or psychological development. In addition, most of these practices are associated with increased school drop-outs.

According to KDHS (2014), about 13.6% of adolescent girls and 0.7% of adolescent boys aged 15-19 were married. The same report showed that 33% of adolescent mothers aged 15-19 had no education. The net effect of this is that the prospects of girls securing decent economic opportunities are greatly compromised, which jeopardises the country's potential for reaping the demographic dividend.

(vii) Child Labour: The Children Act (2022) identifies activities where children are involved for monetary gains, such as transport (*boda boda*, touting), sand and salt harvesting, mining, agriculture (miraa, coffee, tea, sugar cane, flowers), livestock farming, fishing, hawking, domestic work, street begging, beach boys/girls, and commercial sexual exploitation of children, among others. According to surveys, child labour is still rife and rampant in Kenya today. The 2015/16 Kenya Integrated Household and Budget Survey estimated that there are about 773,696 child labourers in Kenya (KNBS, 2018). Child labour negatively impacts their academic progression, health, achievement and physical development.

Effort towards eliminating child labour is primarily through the National Policy on the Elimination of Child Labour and, most recently, the review of the Children's Act, 2022, which domesticated most international and continental conventions to enhance children's rights and protection. In addition, the National Guidelines for School Re-Entry in Early Learning and Basic Education (2020) focus on learners who drop out of school for various reasons and outline the re-entry principles, procedures for re-admission and support mechanisms for the affected learners.

(h) Mental Health in Education

Mental health is a state of well-being whereby individuals recognise and realise their abilities, can cope with the normal stresses of life, work productively and fruitfully, and contribute to their communities. However, if left untreated, persons with mental health disorders can become debilitating and even life-threatening.

Depression is the most common illness worldwide. Kenya was ranked at position four in Africa, with 1.9 million people with the condition (WHO Report, 2014). According to the Kenya Mental Health Policy (2015-2030), mental disorder cases in Kenya continue to rise rapidly. Estimates point that 20-25% of outpatients seeking Primary healthcare present symptoms of mental illness at any one time, while government statistics indicate that at least one (1) in every four (4) Kenyans have a mental illness at one point in their lives.

In recent times, we have been waking up to many shocking incidences ranging from people, including school children and youth, committing suicide and others murdering their loved ones. Learners with emotional and behavioural problems may also engage in truancy, delinquency, drug and substance abuse, suicide and other antisocial behaviours. If not addressed, these problems may lead to poor academic outcomes, school drop-out, as well as criminal and antisocial behaviour. Therefore, the Ministry of Education has been called upon to address challenges of mental health among learners and teachers through the implementation of guidance and counselling policies, mentorship programmes, parental empowerment and engagement, awareness campaigns and teaching of life skills, among other interventions.

(i) Disaster Preparedness and Management in Education Institutions

Kenya is prone to natural and man-made disasters and emergencies that affect a large proportion of school-age children and youth (Approximately 4 million) every year. Drought is especially significant due to its prevalence in ASAL areas, affecting an estimated 250,000 school-age children and 8000 teachers annually to varying severity levels (ESA, 2018). Emergencies that contribute to vulnerabilities in education include refugee influx into Kenya; perennial waves of insecurity in some counties; natural disasters such as floods, wind, lightning, and drought; school fires; terrorism, and school health-related emergencies such as pandemics (COVID-19) and cholera. During these emergencies, learners fail to access education, lose learning time, are traumatised and are deprived of a safe environment. Learners in emergency situations also face a higher risk of death and dropping out of school.

Perennial fire outbreaks in public Secondary Schools have been a cause for worry and a major pertinent issue in Kenya. A report by OAG, 2022 reveals that most public Secondary Schools are ill-prepared to deal with fire disasters and have limited information and utilisation of safety standards and guidelines.

The frequency and extent of disasters affecting education underscore the need for coordinated disaster risk reduction interventions and management at all times. Unfortunately, whenever a tragedy occurs, MoE and other Government officials hastily issue safety guidelines that are never adhered to. The education sector

disaster management policy provides an institutional framework for coordination, communication, information management, implementation, monitoring and evaluation of Education in Emergencies interventions.

The Basic Education Act, 2013, and the Children Act, 2022 give effect to Article 53 of the Constitution, thus providing a robust legislative framework to anchor the Pertinent and Contemporary Issues (PCIs) of concern in the Basic Education and Training sub-sector. Moreover, in collaboration with the development partners, MDAs and other key stakeholders, the MoE has continually developed and/or reviewed policies and guidelines to address PCIs as and when they emerge in society and the subsector.

The PCIs have been included in the curriculum, curriculum support materials and the National Education Sector Strategic Plan (NESSP) to equip learners with knowledge, skills, values and the right attitude to address salient and challenging issues that they encounter in life (KICD, 2019; NESSP 2018-2022).

The Task Force on the Re-Alignment of The Education Sector to The Constitution of Kenya, 2010, recommended teaching the following core subjects at all learning levels; Citizenship (encompassing the History of Kenya and the Constitution), ICT, entrepreneurship, Environmental Studies and Languages for global competitiveness. Consequently, The Basic Education Curriculum Framework (2017) provided six broad areas of PCIs that are mainstreamed in the CBC learning areas and subject areas at the Pre-Primary, Primary, Secondary, Diploma in Early Childhood Education (DECTE), Diploma in Primary Teacher Education (DPTE) and Diploma in Secondary Teacher Education (DSTE) as shown in Table 12.1.

Table 12.1: Pertinent and Contemporary Issues Mainstreamed in CBC

Broad Area	Pertinent and Contemporary Issues
Global Citizenship	Peace education, integrity, ethnic and racial relations, social cohesion, patriotism and good governance, human rights and responsibilities, child's rights, child care and protection, and gender issues in education.
Health Education	HIV and AIDS Education, alcohol and drug abuse prevention, lifestyle diseases, personal hygiene, preventive health, and common communicable and chronic diseases.
Life Skills and Values Education	Life skills, values, moral education and human sexuality, etiquette.
Education for Sustainable Development (ESD)	Environmental education, disaster risk reduction, safety and security education (small arms, human trafficking), financial literacy, poverty eradication, countering terrorism, extreme violence and radicalisation, gender issues and animal welfare.
Learner Support Programmes	Guidance services, career guidance, counselling services, peer education, mentorship, learning to live together, clubs and societies, sports and game.
Community Service Learning and Parental Engagement	Service learning and community involvement, parental empowerment and engagement.

Source: KICD, 2017

Mainstreaming these PCIs will enable the learners to develop appropriate competencies to address the challenges they grapple with in their daily lives, thereby leading fulfilled lives and becoming productive members of society.

MoE coordinates and implements sector-wide school, county and national co-curricular activities to promote Value-based Education (VbE), giving learners and trainees an opportunity to nurture and showcase their competencies and skills and create public awareness of PCIs in society. These activities include games and sports, drama and music festivals, Science and engineering fare, Essay Competitions, School Clubs and Societies.

Co-curricular activities are, therefore, mandatory for all learners in the country, with learners participating in them, first at the school level as programmed, while competition starts at the school level and goes up to the National and EAC regional levels. The MoE provides funding for the activities. Therefore, Co-curricular activities are an integral part of mainstreaming PCIs and providing a well-rounded education that will develop individuals with the appropriate knowledge, competence, skills, values and attitudes necessary and sufficient to produce desirable citizens that contribute positively to society.

12.4 Views from Stakeholders on Cross-Cutting, Pertinent and Contemporary Issues in Education

The stakeholders decried the rising cases of early pregnancy, drug and alcohol abuse, school unrest, and bullying. In addition, it was reported that there existed weak structures for psychosocial support services such as Guidance and Counselling, Peer Counselling, and Career guidance in schools. Out of the 765 submissions on learners' welfare, 48.76% of the submissions recommended a review of the frameworks for Guidance and Counseling, peer counselling, career guidance, and training of teachers on the same. The following was a verbatim excerpt from the submissions:

Address rising cases of school drop-out due to teenage pregnancies. Early marriages, FGM and child labour in bodaboda and agricultural sector, cases of indiscipline, including betting, substance abuse and truancy (RESP147).

Under the MoE, the government should contract and post-professional counsellors in each sub-county to provide psychological therapy to both the teachers and learners (RESP021).

We recommend training select pupils on basic counselling and establishment of peer-to-peer counselling clubs within schools. The peer to peer counselling is very effective as pupils would readily open up to their peers and share challenges affecting them (RESP 020).

They pointed out that schools did not have professional counsellors, and peer counselling among learners was very low. It was further cited that schools lacked structured programs for Guidance and Counselling, mentorship, and peer counselling. The stakeholders recommended strengthening Guidance and Counselling through adequate funding and continuous monitoring.

Further, it was reported that most private and public schools were not adhering to

the official school hours, thus causing distress among learners and denying them time for play, rest and engaging in family time. Learners in some of the boarding schools rarely get adequate sleep hours while those in day institutions were forced to report very early and leave school late in the evening.

From the submissions, it is apparent that following the 100% transition policy, there has been a rapid increase in enrolment, especially in National Secondary Schools, without adequate funding to build more classrooms and dormitories. As a result, students are congested in classrooms, while in dormitories, there is almost no space between beds. As a result, students would not escape easily in an emergency like a fire outbreak. This is happening in the wake of public outcry concerning perennial school fires where some students lost their lives, others got injured, and schools' property worth millions was destroyed.

The PWPER also received submissions and a written memorandum from the Kenya Universities Students Organisation (KUSO), which highlighted the issues affecting University students, including Sexual and Gender-Based Violence, ineffective guidance and counselling services, crime, suicide, alcohol, drugs and substance abuse, and delayed or low completion rates. There is also a notable increase in the spread of HIV and AIDS and sexually transmitted infections due to the moral degradation phenomenon among campus and college students. They spoke about their struggles paying for tuition and living expenses, citing it as a nightmare for most students, especially those from humble backgrounds and self-sponsored programs. KUSO had this to recommend with regard to these issues affecting students:

> *Establish a directorate of Students Affairs in the Ministry of Education to manage rising cases of students mental health challenges that the deans are unable to handle* (RESP 148).

Stakeholders' views on Indigenous knowledge included: inadequate intellectual property rights for informal innovators in African communities whose work remains unrecognised. For example, the Kenyan Ciondo (sisal basket) that has been patented in South Korea, while Nigerian, Senegalese and other African clothes and batik designs have been patented in Taiwan; inadequate teaching learning materials; most teachers/instructors do not have the actual indigenous knowledge as well as Inadequate funds to organise indigenous knowledge documentation and drives/fora.

12.5 Conclusion and Recommendations

12.5.1 Conclusion

Arising from views presented by stakeholders and the situational analysis at global, regional and national levels, it is evident that some emerging issues, such as climate change, have not been fully integrated into the curriculum. In addition, there is lack of clear policies and guidelines for their operationalisation and embedment in the education sector. For instance, while much has been achieved in implementing ESD over the last decade, much remains to ensure policy coherence, implementation and collaboration between the education sector MDAs and development partners for sustainable development.

There has been increased negative behaviour among students. This has led to mainstreaming of Pertinent and Contemporary Issues (PCIs) in CBC. Moreover, MoE has developed a robust policy framework, guidelines and programmes on most of the cross-cutting and emerging issues in education.

Several issues and constraints have been encountered in efforts to promote peaceful co-existence among Kenyans through the education sector. Though there has been an effort to implement the peace education policy, establish peace clubs in schools and mainstream peace education in basic education and training, the impact has not been encouraging, as witnessed in the perennial insecurity, cattle rustling instigated clashes, inter-ethnic and clan conflicts in some of the counties. Peaceful co-existence should be promoted, especially in the current set-up where most TVET and University students are accommodated and live within the local communities. It is, therefore, needful to re-introduce the Community Service Learning programmes for students upon graduation, to promote peaceful co-existence and cultivate a sense of patriotism, appreciation of diverse cultures and work ethics in our youth.

Noting that the majority of the stakeholders raised concerns on weak implementation of learner support programs that include mentorship, sensitisation on fundamental human and children rights, career guidance, guidance and counselling and mental health, among others, It is evident that there is inadequate coordination, monitoring and evaluation of the implementation of the existing policies, programmes and guidelines within the education sector.

12.5.2 Recommendations on Cross-Cutting, Pertinent and Contemporary Issues In Education

1. MoE, in collaboration with the Ministry of Interior and Kenya National Bureau of Statistics (KNBS) to:

    (i) Carry out periodic surveys on the rising and persistent cases of school violence

    (ii) Launch a nationwide mass campaign and action against alcohol, drugs and substance abuse in basic and higher education institutions.

2. MoE to develop and operationalise a policy for mandatory Community Service Learning Programmes for all students upon completion of Senior School, TVET and University education. These programmes should be implemented in two components with the first three months being after Senior School in one's home County, while the rest be in another County after TVET/University education in order to enhance cross-cultural interaction and national cohesion.

3. MoE to strengthen the provision of Guidance and Counselling Services and mentorship for learners, teachers, trainers and lecturers in all education institutions.

4. MoE to:

    (i) Ensure comprehensive dissemination and implementation of existing policies and guidelines on pertinent and emerging issues in education.

(ii)   Ensure adherence to the Regulation 84 of the Basic Education Regulations (2015) on official school hours to promote mental well-being and holistic development of learners in basic education.

5.   MoE to develop and operationalize the following policy frameworks and their implementation guidelines:

(i)   Internationalize University and TVET Education.

(ii)   Infuse Social Media, Life Skills education, Indigenous knowledge, and entrepreneurship education into the education and Training system at all levels.

6.   MoE to:

(i)   Develop and implement a comprehensive capacity-building programmes for all curriculum implementers and education management teams in an effort to mitigate the effect of climate change on the environment;

(ii)   Institutionalise and implement an environmental and climate change action at all levels of Education including a Tree-growing Programme targeting 15 Million trees annually.

(iii)   Ensure the schools gradually shift from the use of firewood to renewable sources of energy;

(iv)   Infuse climate change in the curriculum and instructional materials at all levels of education.

7.   MoE to review and implement the guidelines on:

(i)   Safety and Security Against Violent Extremism (SSAVE) in Basic and Higher Education institutions.

(ii)   The safety standards manual for schools in Kenya (2008)

(iii)   Sector Disaster Management Policy (2017).

8.   MoE, in collaboration with the Ministry of Labour and Social Protection, develop a strategy to ensure compliance with the Children Act, 2022 on the basic rights of children and their protection in school.

9.   MoE to develop a policy framework on dress code for all levels of education.

CHAPTER THIRTEEN

IMPLEMENTATION OF PWPER RECOMMENDATIONS

13.1 Introduction

In order to effectively implement PWPER recommendations, an Implementation Matrix is provided in this Chapter. The Matrix puts exclusive attention on the recommendations made for each of the 12 Chapters and the Terms of Reference therein. In each Chapter, the Matrix guides on the actual activities and tasks to be carried out while implementing the recommendations.

The Matrix also guides implementing bodies, including Ministries, Departments and Agencies (MDAs), and other related institutions. Further, it provides estimated timelines for implementing each activity of the recommendations.

The overall responsibility of implementing the recommendations shall vest in the Cabinet Secretary, Ministry of Education. It is recommended that there be established a Committee to be known as *Ministerial Education Reform Implementation Advisory Committee (MERIAC)*. The membership of the committee shall include representation from the PWPER to provide institutional memory.

13.2 Implementation Matrix

The detailed implementation matrix is provided below.

CHAPTER 2: IMPLEMENTATION OF COMPETENCY-BASED CURRICULUM
2.1 Implementation of Key Tenets of CBC (PE & E, CSL and VbE

Recommendation	Activity	Responsibility	Timeline
Integrate key tenets to support the successful implementation of CBC at all levels of Education and Training.	(i) Develop a structured chaplaincy (religious and moral) and counselling guidelines and programs.	- MoE/ Legal Professional Counselling Bodies/ Faith-based Organisations	6 Months
	(ii) Sensitise parents, caregivers, guardians and the community on their role in their children's learning.	- MoE/ KICD	Every Year
	(iii) Develop and implement a Whole School Approach (WSA) on VbE; (develop training materials, identify pilot schools, orient teachers, pilot the VbE programme, roll out the programme, Monitor and Evaluate).	- MoE/ TSC/ KICD	1 Year
	(iv) Build the capacity of teachers, QASOs and other education stakeholders on VbE, PE&E and CSL.	- MoE/ KICD	1 Year
	(v) Develop and implement a communication strategy to inform and shape the opinion of the public on tenets of CBC.		1 Year
	(vi) Monitor and Evaluate the implementation of the key tenets in CBC.	- MoE/ KNEC	Every Year

2.2 Assess and recommend an appropriate structure to implement the Competency-Based Curriculum

Recommendation	Activity	Responsibility	Timeline
Adopt a 2-6-3-3-3 Education Structure.	(i) Develop guidelines on the Management of Pre-Primary to Grade 9 as a comprehensive school.	- MoE/ TSC	6 Months
	(ii) Develop guidelines on APBET.		
	(iii) Build the capacity of Education officials, Heads of Institutions and other stakeholders in School Management.		

2.3 The public school's categorisation policies and implications on access, transition and cost

Recommendation	Activity	Responsibility	Timeline
Discontinue categorisation of public Secondary Schools from the current nomenclature	(i) Undertake an audit to establish the number and distribution of public Secondary schools in the Country; (ii) Generate criteria for classifying schools in terms of career pathways while ensuring all regions have all the options;	- MoE	6 Months
(National, Extra-County, County, and Sub-County) to career pathways (STEM, Social Science and Arts and Sports Science) at Senior School; and to enhance equity and inclusion, promote the establishment of low-cost boarding Primary Schools in marginalised areas; focus on infrastructural and resources support for Sub-County Senior Schools to offer the three pathways.	(iii) Enhance guidelines on the establishment of low-cost boarding Primary schools.	- MoE	1 Year

2.4 Assessment and Examination Framework

Recommendation	Activity	Responsibility	
Review the Competency-Based Assessment Framework.	(i) Restructure KPSEA for purposes of monitoring learners' progress and providing feedback to stakeholders as cumulative SBAs for Grade 4 to 6 - not for placement. (ii) Provide guidelines for APBET. (iii) Provide mechanisms for setting and printing national assessment in Kenya. (iv) Formulate guidelines for placement of learners into the career pathways at Senior School. (v) Develop assessment framework for non- formal schooling.	- MoE/ KNEC	1 Year

Recommendation	Activity	Responsibility	
	(vi) Enhance ICT Systems to enable e-assessment for various levels.	- MoE - KNEC	2 Year
	(vii) Build capacity of teachers and relevant stakeholders on new approaches in assessment.	- MoE - KNEC - TSC	3 Year
	(viii) Monitor and evaluate the implementation of the reviewed assessment process.	- KNEC - TSC - MoE	Every Year
Provide for: Selection and placement of learners into career pathways to Senior School; and Computation of KCSE mean score by KNEC based on Mathematics, English/ Kiswahili, and 5 other best performed subjects.	(i) Develop guidelines for computing KCSE mean score. (Based on English/Kiswahili, Maths and any other 5 best subjects). (ii) Develop guidelines for the selection and placement of learners into career pathways as they transition to Senior School based on performance, interests, and competencies (including use of aptitude test).	- MoE	1 Year
Develop the capacity of KNEC to print National Assessments in Kenya	(i) Infrastructure development (ii) Capacity building	- MoE	3 Years

2.5 Summative Evaluation of Competency-Based Curriculum

Recommendation	Activity	Responsibility	
Rationalise the number of learning areas and curriculum designs in terms of scope, integration of subjects within a learning area, gaps, content overload and overlaps in basic education.	(i) Rationalise the number of learning areas as follows: (a) Pre-Primary (PP1 – PP2): the learning areas not to exceed 5; (b) Lower Primary (Grade 1-3): The learning areas not to exceed 7; (c) Upper Primary (Grade 4-6): The learning areas not to exceed 8; (d) Junior School (Grade 7-9): The learning areas not to exceed 9; (e) Senior School (Grade 10-12): A maximum of 7 Subjects.	- KICD	Immediate
	(ii) Review the BECF to cater for amendments to the curriculum designs. (iii) Review curriculum designs to address gaps, overload and overlaps.	- KICD	6 Months

Review the policy guidelines on textbooks and other instructional materials.	(i) Formulate guidelines on textbooks and curriculum support materials to ensure the best two evaluated textbooks by KICD are supplied to each school.	- MoE/ KICD/ SLIMC	1 Year
Restructure SEPU to School Learning and Instructional Materials Centre (SLIMC) to coordinate the procurement and distribution of textbooks and other learning resources.	(ii) Train publishers and digital content creators on the development of quality content for both regular and SNE learners. (iii) SLIMC to procure for digital resources hosted in Kenya Education Cloud (KEC).	- MoE/ MoICT/ KICD	1 Year
Develop guidelines on foundational learning for Early Years Education.	(i) Develop guidelines on foundational learning. (iii) Develop a framework to enable KICD to be the publisher of the last resort where publishers do not submit manuscripts for evaluation such as SNE and Indigenous languages.	- MoE	1 Year

2.6 Technology for curriculum delivery, improved learning outcomes and education management

Recommendation	Activity	Responsibility	Timeline
Leverage technology at all levels of education by developing ICT infrastructure for curriculum delivery; and improve digital literacy among teachers, parents and other key stakeholders.	(i) Design an affordable fit-for-purpose device for learning.	- MoE/ MoICT/ Ministry of Energy/ Ministry of Industrialisation/ ICTA/ KPLC/ REA	1 Year
	(ii) Develop affordable local ICT in education solutions.	- MoE/ Ministry of Industrialisation	2 Years
	(iii) Adopt Public, Private Partnerships (PPP) to enhance ICT integration in education.	- MoE/ The National Treasury/ Development partners	2 Years
	(iv) Provide power and Internet connectivity in all learning and training institutions.	- MoE/ ICTA - Ministry of Energy	2 Years
	(v) Build the capacity of educators, managers and policymakers on technology in education.	- MoE	Continuous
	(vi) Develop guidelines on E-Waste management in education and training.	- MoE/ KEBS	2 Years

2.7 Tracking System to capture and enrol children of school age to ensure universal access to Pre-Primary, Primary and Secondary education.			
Recommendation	**Activity**	**Responsibility**	**Timeline**
Integrate registration of births with EMIS and provide a unique identifier for every child from birth. EMIS to be restructured and renamed Kenya Education Management Information System (KEMIS).	(i) Conduct gaps analysis on the existing education data management system.	- MoE/ MoICT/ Ministry of Interior/ The National Treasury/ Ministry of Health	1 Years
	(ii) Develop and integrate a tracking module that has the following modules; User Registration, Login (with a unique identifier), Attendance Register, Teacher module, Learner module, Parent/ Guardian Details, Institutions module, and Support/Help-desk.	- MoE	2 Years
	(iii) Integrate registration of births with KEMIS.	- MoE/ Ministry of Interior/ Ministry of Health	2 Years
CHAPTER 3: QUALITY ASSURANCE AND STANDARDS			
Recommendation	**Activity**	**Responsibility**	**Timeline**
Harmonise the quality assurance function in the basic education sector by ensuring that MoE QAS Directorate has exclusive legal authority to oversee Quality Assurance and Standards function. Accordingly, the Quality Assurance and Standards function at the Teachers Service Commission should be transferred to the Ministry of Education. This harmonisation of QAS functions should be anchored in law.	(i) Disband the TSC Directorate of Quality. Assurance and Standards and transfer function to the MoE.	- MoE/DQAS/ TSC	6 Months
	(ii) Amend relevant laws.	- MoE/TSC/ AG/ Parliament	1 Year
	(iii) Review the law to entrench the domiciling of QAS functions at MoE		
	(iv) Transfer all CSOs to the Ministry of Education and rename them Zonal Quality Assurance & Standards Officers.		

Strengthen the Directorate of Quality Assurance and Standards through appropriate legislation, financing, staffing and capacity building.	(i) Allocate adequate funding for QAS functions. (ii) Develop new guidelines for QAS. (iii) Develop new guidelines for QAS. (iv) Carry out capacity building and skills development for officers. (v) Deploy adequate officers to operationalise the QAS function in all the gazetted educational zones.	- MoE/DQAS/ National Treasury/ Parliament - MoE/DQAS	1 Year Continuously
The Directorate of QAS be conferred with operational powers in law to enable it to enforce laws, regulations, policies, and guidelines of MoE and any other MDAs that pertain to Basic Education institutions.	(i) Review existing laws and guidelines to include but not limited to: (a) power to order closure of institutions that contravene set regulations; (b) power to establish a system of rewards and sanctions; and (c) power to enforce laws, regulations policies and guidelines. (ii) Drafting of new laws and guidelines. (iii) Validation of developed laws and guidelines. (iv) Gazettement of the laws and guidelines. (v) Publishing of reviewed guidelines.	- MoE/DQAS/ Attorney General/ Parliament/ MoE/ DQAS/ AG	1 Year
Review the National Education Quality Assurance and Standards Framework (NEQASF) to address the gaps, align it to international standards and improve its efficacy in assuring quality in education.	(i) Review and update NEQASF to include the following: (a) subject mastery tests, e.g. language fluency tests; (b) Learners' participation in regional and international assessments; (c) annual reporting and periodic publication of reports on the status of the Country's quality and education standards as well as school inspection reports.	- MoE/DQAS	1 Year

	(d) collaboration with other national and regional education systems authorities on best quality assurance and standards practices;	- MoE/DQAS	
	(e) Standards for SNE, ACE, Home and online schooling;	- MoE/DQAS	
	(f) Operational Tools for enforcement such as a tool for immediate closure of institutions, suspension of licence etc.;	- MoE/DQAS	
	(g) Action research/Research;		
	(h) Develop a manual for implementing and utilising the ICT-enabled assessment framework for Institutional-Based Quality Assurance (IBQA);		1 Year
	(i) Establish a hotline for reporting violations of laws, regulations, policies & guidelines for quick enforcement actions; and		6 Months
	(j) Establish a compliance surveillance unit within DQAS.		1 Year

CHAPTER 4: TEACHER EDUCATION AND MANAGEMENT

Chapter 4 (a): To study, assess and make recommendations on the teacher education and training framework for both Pre-service and In-service.

Recommendation	Activity	Responsibility	Timeline
Develop guidelines on how all teachers who graduated before 2023 undergo a mandatory one-year retooling and upgrading programme for compliance with the curriculum change.	(i) Develop guidelines for retooling teachers in the service and those entering the service. (ii) Enforce that only teachers who have undertaken the mandatory training are allowed to teach in all basic education institutions.	- MoE	1 Year

Review the minimum entry grades for Pre-service TE programmes.	(i)	Enforce the minimum entry requirement for Pre-service.	- MoE	Immedi-ately
The Schools/Faculties of Education in Universities to develop comprehensive Faculty Staff retooling programmes in preparation for CBTE at the University level.	(i) (ii) (iii) (iv)	Develop a retooling programme. All Universities offering TE to align their programs, ensuring compliance with CBTE. Up-skill and re-tool all teacher educators for compliance with CBTE and competence-based teacher Assessment (CBTA). Teaching practice to be carried out over two terms.	- MoE/ Uni-versities	1 Year
Establish a Kenya School of Teacher and Education Management (KeSTEM) to coordinate all in-service programmes for Continuous Professional Development for teachers, institutional leaders and education officers.	(i) (ii)	Establish a framework for creating the KeSTEM and its regional centres. Develop a framework for coordinating in-service training for teachers, teacher educators, education administrators and education officers.	- TSC/ MoE	2 Years
Establish Kenya Teacher Training College (KeTTC) to administer all Pre-service teacher training colleges (TTCs). All the Pre-service TTCs shall become campuses. Further, develop a framework to ensure optimal utilisation and sharing of resources.	(i) (ii)	Develop a framework for the establishment of KeTTC. Map and equip all TTCs and their resources to align them with the training programmes they will offer.	- MoE	2 Years
Undertake a mandatory one- year internship programme upon completion of Pre-service training. The internship should be a structured and coordinated programme which includes Teacher Induction, Mentorship and Coaching (TIMEC).	(i)	Develop guidelines for mandatory one-year internship.	- TSC/ MoE	1 Year

TSC in consultation with MoE to harmonise teacher management guidelines on deployment, promotion of teachers and institutional administrators and teacher welfare.	(i) Harmonise the policies for the recruitment of teachers and appointment of heads of institutions. (ii) Review the policies, regulations and guidelines on teacher, safety, security, medical insurance and allowances. (iii) Review policies and guidelines for the deployment of SNE teachers and teachers in marginalised regions to attract and retain teachers.	- TSC/ MoE	2 Years
Review existing policies and guidelines on Pre-Primary teacher deployment and institutional administration. This should ensure collaborative management of teacher registration and recruitment, deployment and transfer, promotion and standardised remuneration, as well as performance monitoring and welfare of all Pre-Primary teachers. SRC to be consulted in the implementation of a collaborative framework on harmonised remuneration of Pre-Primary School teachers.	(i) Develop an intergovernmental agreement between the MoE, TSC and County Governments to harmonise their roles in Pre-Primary teacher registration, deployment, remuneration, welfare, training and management at all levels.	- MoE/ COG/ TSC/SRC	2 Years
Prioritise deployment and remuneration of teachers in Pre-Primary, SNE and hard-to-staff areas under the staff establishment and rationalisation programmes.	(i) Establish policies for teacher entry requirements for the marginalised regions pursuant to Article 56(b) and (c) as interpreted in Article 260 of the Constitution (ii) Rationalise and streamline the deployment of Pre-Primary, SNE and teachers in marginalised regions to enhance equity.	- MoE/ COG/ TSC	2 Years

CHAPTER 5: FINANCING OF BASIC EDUCATION

1.1 TOR 1 (e) to review and recommend appropriate financing framework, including capitation and minimum essential package grants for all levels of basic education.

Recommendation	Activity	Responsibility	Timeline
Implement a financing framework for Basic Education.	(i) Implement the capitation for Pre-Primary, Primary, JS, SS, SNE and ACE as proposed in Appendix 5.1, 5.2 and 5.3. (ii) Prioritise and ring-fence capitation for Pre-Primary (iii) Pre-Primary learners to be captured through EMIS for financing. (iv) Enhance school feeding programme in Pre-Primary, Primary and Secondary Schools	- MoE/ County Government/ TNT - County Governments - County Governments/ MoE - MoE/ County Governments	6 Months 1 Year
Strengthen the School Audit Unit to enable it to support BOMs with internal audit functions and capacity-built school managers, and auditor general to undertake external audit.	(i) Continuous reforms in financial reporting through the adoption of International Public Sector Accounting Standards (IPSAS). (ii) Capacity building on financial and risk management for education managers. (iii) Digitising and automation of financial management process in schools.	- MoE/ National Audit Office/ BOM - MoE/BoM - MoE/BOM	1 Year Continu-ous 1 Year
Adopt a Minimum Essential Package for basic education.	(i) A national-wide school needs assessment to obtain data for MEP. (ii) Set up a dedicated vote in the budget to finance MEP.	- MoE - MoE/County governments	1 Year 2 Year

5.2.1 (g) to review and propose an appropriate framework for the management and coordination of bursaries and scholarships for Secondary School students.

Recommendation	Activity	Responsibility	Timeline
Coordinate bursaries and scholarship.	(i) Establish a multi-agency committee to propose the coordination of bursaries and scholarships. (ii) Design the legal framework for coordinated management of bursaries and scholarships. (iii) Develop a framework of accountability for funds sent to schools.	- MoE/ County governments/ NG-CDF/ Private sector - MoE/ County governments/ NG-CDF/ Private sector - MoE/ TSC/ County governments	6 Months 6 Months 6 Months
	(iv) Improve the data management in basic education to support the allocation of funds to schools.	- MoE	1 Year

5.3.1 (h) to review and recommend a framework for physical and e-infrastructure development and coordination of public-private partnerships for improved access and quality provision.

Recommendation	Activity	Responsibility	Timeline
Reform the School Infrastructure Fund.	(i) Devolve infrastructure development funds to the constituencies to minimise bureaucratic bottlenecks in the delivery of infrastructure projects.	- MoE	6 Months
	(ii) There is a need to renovate underutilised and under-enrolled classrooms in Primary schools in urban and rural areas to serve learners for Junior School.	- MoE	2 Year
	(iii) Develop guidelines and a statement on minimum quality standards and specifications for ICT hardware, online resources and other appropriate software.	- MoE	6 Months
	(iv) Develop guidelines and a statement of minimum quality standards and specifications for ICT hardware, online resources and other appropriate software.	- MoE	6 Months
Framework for resource sharing.	(i) Need for a framework for sharing underutilised infrastructure and other resources at all levels of learning.	- MoE/COG	1 Year
Adopt a low-cost building technology.	(i) Initiate programs that will enable schools to benefit from PPP to support basic ICT infrastructure and furniture, Computer Labs, Workshops, Digital Devices and Internet Installation.	- MoE/ ICT Authority	2 Years
	(ii) Develop policy and regulatory frameworks for public-private partnerships to create incentives for the private sector and faith-based organisations to supplement access to basic education. (iii) Enhance coordination of public and private partnerships for ICT.	- MoE/ TNT	
	(iv) Develop infrastructure in ACE centres to enhance access.	- MoE/ ICT	

CHAPTER 6: EQUITY AND INCLUSION

6.1 To review and recommend equitable access to education, especially for those facing social, economic and geographic marginalisation, vulnerable populations, children and persons with special needs.

Recommendation	Activity	Responsibility	Timeline
Review policies and guidelines on Special Needs Education with a view to establish strategies for centralised production, repair, maintenance and distribution of Specialised Learning Resources, Assistive Devices and Adapted Technologies.	(i) Develop strategies for the provision of Specialized Learning Resources, Assistive Devices and Adapted Technologies. (ii) Develop a scheme of service for SNE auxiliary staff. (iii) Recruit and deploy SNE Auxiliary staff. (iv) Develop a National Framework for the Assessment, Referral and Placement of learners with Special Needs and Disabilities. (v) Recruit and deploy EARC staff. (vi) Develop a Data platform for learners with special needs and disabilities and link with KEMIS to aid planning and provision of services. (vii) Adapt Curriculum for learners with SNE in both Age and Stage based pathway. (viii) Develop infrastructure for the promotion of Gifts and Talents.	- MoE/ Partners/KISE/ KICD	1 Year
Enhance accelerated education programmes for marginalised learners and learners in APBET institutions.	(i) Develop and implement strategies for the education of children in statutory children's institutions under the Department of Children's Services. (ii) Expand the school meals program to reach all nomadic and marginalised children. (iii) Provide bursaries to pre-teen and teen mothers. (iv) Develop and Implement a Refugee Education Policy to implement the Comprehensive Refugee Response Framework (CRRF).	- MoE	

	(v) Establish additional learning spaces within and around informal urban settlements to enhance access for learners in APBET institutions and street children.		
	(vi) Develop and implement a policy on education for prisoners.		
	(vii) Develop and operationalise a framework for accelerated Learning for Out of School Children(OOSC).		

CHAPTER 7: LAWS GOVERNING BASIC EDUCATION

To study all laws governing the basic education subsector and make recommendations for review of these legislations with a view to addressing duplication, ambiguities, efficiency constraints and improving linkages.

Recommendation	Activity	Responsibility	Timeline
Policy Review and Development	(i) Develop National Education Policy (Sessional Paper) to provide a framework for the current basic education reforms.	- MoE/ TSC/ COG	12 Months
	(ii) Develop an intergovernmental relations mechanism for sharing of resources between the two levels of Government.	- National Government through MoE, The National Treasury and Attorney General's Office/ CoG/ IGTRC	6 Months
	(iii) Develop an intergovernmental agreement on the hiring and remuneration of ECE teachers.	- National Government through MoE, National Treasury and Attorney General's Office/ CoG/ TSC / IGTRC	6 Months
	(iv) Develop guidelines on the facilitation of religious rights for all learners in basic education institutions.	- MoE, all Religious Groups, TSC, CoG, KNCHR, Attorney General's Office.	12 Months
Review and Development of Legislation	Review the Basic Education Act No. 14 of 2013 and Basic Education Regulations 2015 to provide for the proposed changes as presented in Appendix 7.1.	- MoE (State Department for Basic Education), CoG, Attorney General's Office, Kenya Law Reform Commission	12 Months

Develop the Education Appeals Tribunal Bill to provide for the establishment of the Education Appeals Tribunal to hear all administrative issues in the Education Sector.	(i) Technical personnel (ii) Policy documents (iii) Workshops/retreats	- MoE/AG/KLRC	12 Months
Develop the Teacher Education and Training Bill to centralise teacher education and training and provide for the establishment of Kenya Teachers Training College and KeSTEM.	(i) Technical personnel (ii) Policy documents (iii) Workshops/retreats	- MoE/AG/KLRC	12 Months
Develop the Management of Scholarships and Bursaries in Basic Education Bill to centralise bursaries and scholarship management.	(i) Technical personnel (ii) Policy documents (iii) Relevant legislations (iv) Workshops/retreats	- MoE/AG/KLRC	12 Months
Review the KICD Act and develop its Regulations to provide for the proposed changes as presented in Appendix 7.1.	(i) Technical personnel (ii) Policy documents (iii) Relevant legislations (iv) Workshops/retreats	- MoE/AG/KLRC/ KICD	12 Months
Review the KNEC Act and its Regulations to provide for the proposed changes as presented in Appendix 7.1.	(i) Technical personnel (ii) Policy documents (iii) Relevant legislations (iv) Workshops/retreats	- MoE/AG/KLRC/ KNEC	12 Months
Review the TSC Act and its Regulations to provide for the proposed changes as presented in Appendix 7.1.	(i) Technical personnel (ii) Policy documents (iii) Relevant legislations (iv) Workshops/retreats	- MoE/AG/KLRC/TSC	12 Months

CHAPTER 8: TECHNICAL AND VOCATIONAL EDUCATION AND TRAINING (TVET)

RECOMMENDATION	ACTIVITY	RESPONSIBILITY	TIMELINE
8.1 Governance Framework for TVET			
Institutionalise industrial (formal and informal) linkage in the TVET sub-sector.	(i) Review TVET curriculum periodically	- SDTVET/ TVET CDACC/ Industry	Continuous
	(ii) Develop guidelines for engaging TVET trainees in the implementation of government projects.		
	(iii) Develop a framework for linking with *Jua Kali*.		
	(iv) Review the guidelines on the appointment of Councils/BoMs to comprise at least 50% + 1 of their members drawn from relevant industries considering the diversity of professions.		
	(v) Establish industry advisory committees for the different sectors in the institutions.		
	(vi) Develop and implement industrial partnership/ cooperation guidelines.		
	(vii) Map out relevant industries and strategic skill sets for regional socio-economic development.	- SDTVET/MDAs - Development partners	2 Years
	(viii) Develop and implement a Work-Integrated-Training (WIT) model.	- SDTVET/ MDAs/*Jua Kali*	2 Years
	(ix) Develop a policy framework on incubation, commercialisation of innovations, technology transfer centres and museums.	- SDTVET/TVET Institutions/ KENIA/ Industry/KIPI	2 Years
	(x) Review TVET Quality Assurance and Standards framework and tools to leverage technology in collaboration with the industry.		
	(xi) Develop and implement a policy framework on retooling and up-skilling TVET trainers in partnership with the industry.		2 Years
	(xii) Develop guidelines on industrial attachment for TVET trainers.	- Industry, TVET institutions, KSTVET	
	(xiii) Operationalise TVET MIS to strengthen monitoring, evaluation and report.	- SDTVET/MDAs	

Establish an Intergovernmental Technical Trainers Service Council.	(i) Entrench a Trainer Service Council in the TVET ACT. (ii) Capacity build the Trainer Service Council. (iii) Review guidelines on the management of trainers in public institutions in collaboration with County Governments. (iv) Develop a standardised scheme of service for all TVET trainers.	- PSCK/Ministry of Public Service and Gender/ SDTVET/ County Governments/	2 years
Support Technical Universities with appropriate infrastructure for SNE Programmes.	(i) Develop and implement policies on inclusivity in TVET. (ii) Expand and adapt infrastructure and equipment in TVET institutions. (iii) Develop and adapt curriculum and resource materials to cater for trainees with special needs. (iv) Capacity build trainers with skills to effectively deliver Curriculum to trainees with Special Needs.	- SDTVET/ Industry/ TVET institutions/ Development Partners	5 Years
Strengthen the capacity of TVET CDACC to carry out curriculum development, assessment and certification in TVET.	(i) Expand infrastructure and equipment for TVET CDACC. (ii) Capacity build staff in collaboration with industry. (iii) Operationalize TVET MIS to strengthen monitoring, evaluation and reporting. (iv) Review guidelines on competency-Based assessment and certification.	- SDTVET/ TVET CDACC/ KNEC/KICD/ The National Treasury	2 years
Merge the training and assessment component in NITA with TVET CDACC.	(i) Develop a framework for merging the training and assessment function of NITA with TVET CDACC.	- SDTVET/NITA/ The National Treasury/ Ministry of Labour/ - TVET Institutions	2 Years
Universities that were upgraded from TVET should progressively transfer services of academic staff who do not meet the requisite qualification to each in a University.	(i) Map out University academic staff absorbed from TVET. (ii) Develop guidelines on the transfer of service. (iii) Transfer service of trainers from University of MoE.	- Universities/ SDTVET/ The National Treasury/ Public Service commission	3 Years

Streamline linkages between TVET institutions at all levels and continuity of graduates from TVET to the Universities and vice versa.	(i) Implement Credit Accumulation and Transfer Systems (CATS). (ii) Implement the Recognition for Prior Learning (RPL) policy. (iii) Create Awareness of CATS and RPL. (iv) Develop a framework for linkages among TVETs to remove duplications and create centres of excellence based on niche.	- MoE/KNQA/ Qualifications Awarding Institutions (QAIs), Regulators, CUE/TVET Institutions/ Universities	Continuous
Entrench the Kenya School of TVET in TVET ACT and provide for its regional Campuses. Strengthen the ODeL utilisation in TVET.	(i) Review TVET Act to provide for KSTVET in law. • SDTVET • AG • Legal officer • KSTVET (ii) Establish Regional Campuses of KSTVET. (iii) Enhance the capacity the National TVET ODeL platform at the KSTVET. (iv) Provide ODeL infrastructure and resources IN TVET institution. (v) Provide ODeL platforms. (vi) Capacity build TVET implementors on ODeL. (vii) Develop digital content for ODeL platforms.	- SDTVET/Service Providers/ TVET institutions/ Service Providers/ Industry/ Ministry of ICT/ Development Partners	3 Years

CHAPTER 9: UNIVERSITY EDUCATION TRAINING AND RESEARCH

Recommendation	Activity	Responsibility	Timeline
Amend the Universities Act, 2012: (a) To provide for the identification of Chancellors in public Universities by a selection panel constituted by the Cabinet Secretary to recommend three nominees for appointment by the President. (b) To provide for the appointment of a selection panel to identify and recommend nominees for consideration as Chairperson and Members of Council, by the Cabinet Secretary in charge of Ministry of Education. (c) To have the University Council carry out the recruitment and appointment of Vice-Chancellor and Deputy Vice-Chancellor, Principals of Colleges and Deputy Principals in Public Universities without the involvement of the Public Service Commission.	Review the Universities Act and draft the amendments.	- MoE / State Department for Higher Education/ CUE	1 Year

Amend the University Act to provide for the competitive appointment of Deans of Schools/Faculties rather than elections.	Review the Universities Act and draft the amendments	- MoE / State Department for Higher Education/ CUE	1 Year
Amend the State Corporations Act, 2015 to include Universities in the list of exempted entities to make them autonomous. In addition, income generation entities by the Universities should be allowed to operate under respective Universities.	Review the Universities Act and draft the amendments.	- MoE /State Department for Higher Education/ CUE/ State Corporations Advisory Committee	1 Year
(All Technical Universities should be Chartered under Section 70 (2) (a). The Technical University of Mombasa (TUM) and Technical University of Kenya (TUK) should be re- Chartered.	Re-Charter the Technical Universities.	- MoE /Treasury / State Department for Higher Education/CUE	1 Year
Provide enhanced support to TVET and University research and innovation by: - (i) Allocating one-third of the 2% GDP provided in the STI Act, 2013 annually to Universities, and another one third to TVETs. (ii) Exempting the University scholarly research from NACOSTI and other related levies.	- Allocation of one- third of 2%GDP to Universities and another one third to TVETs. - Exempt Universities Scholarly research from NACOSTI and other Levies.	- MoE /Treasury / State Department for Higher Education/UFB/ NRF/ NACOSTI	1 Year
Develop a framework for institutionalising University and industry linkages by promoting University and industry staff engagements in training and practical experience.	Review and enhance the framework for institutionalising University and industry linkages by promoting University and industry staff engagements in training and practical experience.	- MoE /Treasury / State Department for Higher Education/ UFB/ NRF/ NACOSTI	1 Year

Establish a National Research Council to coordinate all public research institutions in the Country.	Establish a National Research Council.	- MoE /the National Treasury / State Department for Higher Education/ UFB/ NRF/ NACOSTI	1 Year
Operationalise Open University in Kenya.	Establish the Open University of Kenya.	- MoE's State Department of Higher Education/ CUE	1 Year
Review the Universities' Standards and Guidelines, 2014, to provide criteria on minimum admission qualifications for OUK.	Review the Universities standard and guidelines.	- MoE, State Department of higher education/ CUE	1 Year
Develop a national policy framework on Open distance and eLearning (ODeL).	Develop a national policy framework on Open distance and eLearning (ODeL).	- MoE/ State Department of Higher/ Education/ CUE	1 Year
Fast track affordable, broadband high-speed Internet connectivity to tertiary educational institutions.	Provide broadband high-speed Internet connectivity.	- MoE/ Universities/ ICTA	1 Year
Develop the University Competency-Based Curriculum Framework (UCBCF)	Develop a Competency-Based Curriculum Framework for Universities (UCBCF) developed.	- MoE/ State Department of higher education/ CUE	1 Year
Universities to retool all teaching staff in order to implement the CBE	Retool all teaching and non- teaching staff.	- MoE/State Department of Higher CUE/ Universities	1 Year
Universities to review their Bachelor of Education degree programme to align with the CBC at Secondary School level by the start of 2023/2024 academic year.	Train education degree students on CBC.	- MoE, CUE and Universities	1 Year

CHAPTER 10: FINANCING FRAMEWORK FOR TERTIARY EDUCATION

Recommendation	Activity	Responsibility	Timeline
Implement the Variable Scholarship and Loan Fund (VSLF) Model	(i) Develop guidelines on the new student financing model. (ii) Sensitise stakeholders on the new financing model.	- MoE/National Treasury/ KUCCPS/HELB/ Industry/Tertiary Institutions	Continuous
Provide a minimum essential package to facilitate operations of the new public Tertiary institutions.	(i) Develop a financing framework that considers a minimum package for the new institutions. (ii) Develop a financing framework that considers an infrastructure package for TVET institutions.	- MoE/National Treasury	1 Year
Government to provide for conditional grants for `VTCs, ring-fence the amount for the institutions.	(i) Develop framework for grant allocation. (ii) Allocate funds	- MoE/National Treasury	1 Year
MoE to develop and implement a performance-based formula for capital infrastructure development for Universities and TVETs.	(i) Develop performance-based formula for capital infrastructure	- MoE/ National Treasury	1 Year
Review the job evaluation for University academic staff taking into account comparative skills in the region.	(i) Review job evaluation for lecturers.	- MoE/National Treasury/ University Councils/ SRC	1 Year
Incentivise Universities and TVET to improve performance in research and innovations:	(ii) Implement 2% of statutory provision provided in the Science and Technology Act, 2013.	- MoE/National - Treasury/NRF/ - Universities/ - TVET institutions/ Industry	2 years
Develop and implement a performance-based formula for capital infrastructure development for Universities and TVET.	(i) Develop and implement guidelines for infrastructure grants to Tertiary institutions. (ii) Develop a projection of the number of students transitioning from CBC.	- MoE/National Treas ury/ Universities/ TVET institutions	1 Year

Rationalise senior administrative positions, review and strengthen internal financial management systems towards making them sustainable. Merge unviable Universities.	(i) Develop guidelines on the internal financial management of Universities and TVETs. (ii) Develop guidelines for merging unviable Universities.	- MoE/National Treasury/ Universities/ TVET institutions	2 Years

CHAPTER 11: LAWS GOVERNING TERTIARY EDUCATION

Develop National Education Policy (Sessional Paper) to provide a framework for the current tertiary education reforms.	(i) Formulate the policy document (ii) Stakeholders Engagements (iii) Attorney General's Advisory (iv) Cabinet Approval (v) Parliament Approval	- MoE/ TVETA/ CUE/ KNQA/ COG/ TVET CDACC/ NITA/ Attorney General Office/ National Treasury	12 Months
Review the Technical and Vocational Education and Training Act No. 29 of 2013 and its Regulation and repeal the Industrial Training Act, Cap. 237 to provide for the proposed changes as presented in Appendix 11.1.	(i) Draft Bill and Regulation (ii) Stakeholders Engagements (iii) Attorney General's Advisory (iv) Cabinet Approval (v) Parliament Approval	- MoE (State Department for TVET)/ TVETA/ TVET CDACC/ KNQA/Ministry of Labour and Social Protection/NITA/ COG/Attorney General's Office	12 Months
Review the Kenya National Qualification Framework Act No. 22 of 2014 and its Regulation to provide for the proposed changes as presented in Appendix 11.1.	(i) Draft Bill and Regulation (ii) Stakeholders Engagements (iii) Attorney General's Advisory (iv) Cabinet Approval (v) Parliament Approval	- MoE (State Department for Higher Education and Research)/ CUE/ Attorney General's Office	12 Months
Review of the Engineers Act No. 3 of 2012 to pro- vide for the proposed change as presented in Appendix 11.1.	(i) Draft Bill and Regulation (ii) Stakeholders Engagements (iii) Attorney General's Advisory (iv) Cabinet Approval (v) Parliament Approval	- Attorney General's Office/ Engineering Board/National Treasury/CUE/ MoE/KNQA/ Ministry of Transport and Infrastructure	12 Months

Review of the Medical Laboratory Technicians and Technologists Act, CAP. 253a to provide for the proposed change as presented in Appendix 11.1.	(i) Draft Bill and Regulation (ii) Stakeholders Engagements (iii) Attorney General's Advisory (iv) Cabinet Approval (v) Parliament Approval	- Attorney General's Office/ Medical Laboratory Technicians and Technologists Board/ The National Treasury/ CUE/ MoE/ MoH	12 Months
Review of the Legal Education Act, No. 27 of 2012 to provide for the proposed change as presented in Appendix 11.1.	(i) Draft Bill and Regulation (ii) Stakeholders Engagements (iii) Attorney General's Advisory (iv) Cabinet Approval (v) Parliament Approval	- Attorney General's Office/ CLE/ National Treasury/ CUE/MoE	12 Months
Review of the Legal Education Act, No. 27 of 2012 to provide for the proposed change as presented in Appendix 11.1.	(i) Draft Bill and Regulation (ii) Stakeholders Engagements (iii) Attorney General's Advisory (iv) Cabinet Approval (v) Parliament Approval	- Attorney General's Office/ CLE/The National Treasury/ CUE/MoE	12 Months
Review of the Advocates Act, Cap.16 to provide for the proposed change as presented in Appendix 11.1.	(i) Draft Bill and Regulation (ii) Stakeholders Engagements (iii) Attorney General's Advisory (iv) Cabinet Approval (v) Parliament Approval	- Attorney General's Office/ CLE/ National Treasury/ CUE/MoE/LSK/ Judiciary	12 Months
Review of the Veterinary Surgeons and Veterinary Para-Professionals Act No. 29 of 2011to provide for the proposed change as presented in Appendix 11.1.	(i) Draft Bill and Regulation (ii) Stakeholders Engagements (iii) Attorney General's Advisory (iv) Cabinet Approval (v) Parliament Approval	- Attorney General's Office/ KVB/ The National Treasury/ CUE/MoE	12 Months
Review of the Nutritionists and Dieticians Act No. 18 of 2007 to provide for the proposed change as pre- sented in Appendix 11.1.	(i) Draft Bill and Regulation (ii) Stakeholders Engagements (iii) Attorney General's Advisory (iv) Cabinet Approval (v) Parliament Approval	- Attorney General's Office/ Kenya Nutrition and Dieticians Accreditation Board/ The National Treasury/ CUE/ MoE	12 Months

Review of the Review of the Medical Practitioners and Dentists Act CAP. 253 to provide for the proposed change as presented in Appendix 11.1.	(i) Draft Bill and Regulation (ii) Stakeholders Engagements (iii) Attorney General's Advisory (iv) Cabinet Approval (v) Parliament Approval	- Attorney General's Office/Medical Practitioners and Dentist Board/ The National Treasury/CUE/ MoE	12 Months
Review of the Review of the Media Act, CAP. 411B to provide for the proposed change as presented in Appendix 11.1.	(i) Draft Bill and Regulation (ii) Stakeholders Engagements (iii) Attorney General's Advisory (iv) Cabinet Approval (v) Parliament Approval	- Attorney General's Office/ Media Council of Kenya/ National Treasury/ CUE/ MoE	12 Months
Review of the Science, Technology and Innovation Act No. 28 of 2013 and it's Regulation to provide for the proposed change as presented in Appendix 11.1.	(i) Draft Bill and Regulation (ii) Stakeholders Engagements (iii) Attorney General's Advisory (iv) Cabinet Approval (v) Parliament Approval	- MoE (State Department for Higher Education and Research)/ CUE/NACOSTI/ KeNIA/ - NRF/ Attorney General's Office	12 Months
Review of the Tourism Act No. 28 of 2011 provide for the proposed change as presented in Appendix 11.1.	(i) Draft Bill and Regulation (ii) Stakeholders Engagements (iii) Attorney General's Advisory (iv) Cabinet Approval (v) Parliament Approval	- Attorney General's Office/ Ministry of Tourism, Wild- life and Culture/ National Treasury/ CUE/ MoE	12 Months

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Appendix P1: Presidential Working Party on Education Reform (PWPER) Secretariat and Support Staff

SECRETARIAT- TECHNICAL	SECRETARIAL PERSONNEL	
1. Joseph Wambua	1. Margaret Maingi	
2. Nelly Marete	2. Mercy Mbugua	
3. David Maina Wambugu	3. Esinah Nyabate	
4. Christine Siranga		
5. Kennedy Buhere	**EDITORIAL TEAM**	
6. Janet C. Rotich	1. Joseph N. Ndegwa	
7. John Nyangena	2. Fredrick Koech Morusoi	
8. Paul Mungai	3. Sylvester Thuo Karanja	
9. Fredrick Odhiambo		
10. Albert Aluvisia	**RECORDS/CLERICAL**	
11. Zipporah Kawira Mugambi	1. Kennedy Amisi	
12. Milton Njuki	2. Isaac Warindu	
13. Victor Mose	3. Benjamin Mutuku	
14. Abednego Kamandi		
15. Lucy Mbae	**SUPPORT STAFF**	
16. Kennedy Otieno	1. Mercy Chege	
17. Carilus Ateng Ogwel	2. Wahida Njoroge	
18. Dominic Kasimu	3. Dismus Mwololo	
19. Francis Karanja	4. Evans Munyi	
20. Isaac Gathirwa		
21. Daniel Sanoe		
22. Nelly Machu		
23. Bernard Nanjakululu		
24. Martin Khaoya		
25. Emilio Mukira Gichigo		

Appendix 1.1: List of Some Organisations that Submitted Memoranda to PWPER

S/No	NAME OF ORGANISATION
1.	Action for Children with Disabilities (ACD)
2.	African Population and Health Research Center (APHRC)
3.	Al-Wahdah Muslim Teachers Association (AMTA)
4.	Alliance of Theological Schools Accrediting & Licensing Commission (ATSAC)
5.	Anglican Church of Kenya (ACK)
6.	Association for Christian Theological Education in Africa (ACTEA)
7.	Banks (Equity Group Foundation, Co-operative Bank of Kenya)
8.	Central Organisation of Trade Unions, Kenya (COTU-K)
9.	Centre for Mathematics, Science and Technology Education in Africa (CEMASTEA)
10.	Chancellor's Committee
11.	Child Edification Program
12.	Commission for Theological Education (CTE)
13.	Commission for Theological Education and Training (CTET)
14.	Commission for University Education (CUE)
15.	Council of Governors (COG)
16.	County Assembly Forum (CAF)
17.	Dignitas Project
18.	Early Childhood Development (ECD) Network for Kenya
19.	Early Chilhood Development Education (ECDE) Association
20.	East African Students Union (EASU)
21.	EdTech Hub
22.	Education Africa Foundation
23.	Education Deans' Forum
24.	Education Sector Development Partners
25.	Elimu Yetu Coalition (EYC)
26.	Endo Sisters East Africa Foundation
27.	Evangelical Alliance of Kenya (EAK)

S/No	NAME OF ORGANISATION
28.	Faith-Based Organisations (FBOs) in Kenya (National Council of Churches of Kenya, Kenya conference of Catholic Bishops, Presbyterian Church of East Africa, Supreme Council of Kenya Muslims)
29.	Higher Education Loans Board (HELB)
30.	Institution of Engineering Technologists and Technicians of Kenya (IET-K)
31.	Institution of Surveyors of Kenya (ISK)
32.	Inter-Public Universities Council Consultative Forum (IPUCCF)
33.	Jomo Kenyatta Foundation (JKF)
34.	Keep Kenya Learning (KKL)
35.	Kenya Alliance of Non-Formal Schools Welfare Association (KANSWA)
36.	Kenya Association of Manufacturers (KAM)
37.	Kenya Association of Private Universities (KAPU)
38.	Kenya Association of Technical Training Institutions (KATTI)
39.	Kenya Book Sellers and Stationers Association (KBSSA)
40.	Kenya Christian Professionals Forum (KCPF)
41.	Kenya Council of Imams and Ulamaa (KCIU)
42.	Kenya Curriculum Support Officers Association
43.	Kenya Defence Forces (KDF)
44.	Kenya Diaspora Alliance (KDA)
45.	Kenya Education Management Institute (KEMI)
46.	Kenya Education Network (KENET)
47.	Kenya Engineering Technology Registration Board (KETRB)
48.	Kenya Institute for Public Policy Research and Analysis (KIPPRA)
49.	Kenya Institute For The Blind (KIB)
50.	Kenya Institute of Curriculum Development (KICD)
51.	Kenya Institute of Special Education (KISE)
52.	Kenya Lifesaving Federation (KLF)
53.	Kenya Literature Bureau (KLB)
54.	Kenya National Academy of Sciences (KNAS)
55.	Kenya National Association of Private Colleges (KENAPCO)
56.	Kenya National Commission for Unesco - (KNATCOM)
57.	Kenya National Commission on Human Rights (KNCHR)

S/No	NAME OF ORGANISATION
58.	Kenya National Examinations Council (KNEC)
59.	Kenya National Federation of Jua Kali Associations (KNFJKA)
60.	Kenya National Innovation Agency (KENIA)
61.	Kenya National Interface Team (KNIT)
62.	Kenya National Teachers Pressure Group (KNTPG)
63.	Kenya National Union of Teachers (KNUT)
64.	Kenya Primary School Headteachers Association (KEPSHA)
65.	Kenya Private Schools Association (KPSA)
66.	Kenya Private Sector Alliance (KEPSA)
67.	Kenya Publishers Association (KPA)
68.	Kenya Christian School for the Deaf
69.	Kenya Secondary Schools Heads Association (KESSHA)
70.	Kenya Society for Deaf Children
71.	Kenya Technical Trainers College (KTTC)
72.	Kenya Union of Domestic, Hotels, Educational Institutions and Hospital Workers (KUDHEIHA Workers)
73.	Kenya Union of Post Primary Teachers (KUPPET)
74.	Kenya Union of Pre-Primary Education Teachers (KUNOPPET)
75.	Kenya Union of Secondary Schools Non-Teaching Staff (KUSSNTS)
76.	Kenya Union of Special Needs Education Teachers (KUSNET)
77.	Kenya Union of Technical Vocational Education and Trainers (KUTVET)
78.	Kenya Universities and Colleges Central Placement Service (KUCCPS)
79.	Kenya Universities Quality Assurance Network (KUQAN)
80.	Kenya Universities Staff Union (KUSU)
81.	Kenya Universities Students' Organisation (KUSO)
82.	Kenya Women Teachers Association (KEWOTA)
83.	Kenyatta University
84.	Lokwa General Works and Contractors
85.	Members of National Assembly
86.	Members of Senate
87.	Association of Education Officers of Kenya

S/No	NAME OF ORGANISATION
88.	Ministry of Defence
89.	Ministry of Education
90.	Muslim Education Council
91.	Mwalimu Digital Kenya
92.	Nanotechnology and Indigenous Knowledge Centre of Excellence
93.	National Association of Private Universities in Kenya (NAPUK)
94.	National Commission for Science, Technology and Innovation (NACOSTI)
95.	National Council for Nomaidc Education in Kenya (NACONEK)
96.	National Council of Churches of Kenya (NCCK)
97.	National Council for Persons Living with Disabilities (NCPWD)
98.	National ECDE Teachers Association (NAETA)
99.	National Government Constituencies Development Fund (NG-CDF)
100.	National Industrial Training Authority (NITA)
101.	National ODEL in Technical and Vocational Education and Training Technical Committee
102.	National Polytechnics' Forum
103.	National Research Fund (NRF)
104.	National Research and Education Network (NREN) of Kenya
105.	Pan Africa Christian (PAC) University
106.	Private Sector-EdTech Consortium for Inclusive, Effective and Resilient Digital Learning in Kenya
107.	Public University Chancellors' Committee
108.	Regional Education Learning Intiative (RELI)
109.	Save the Children International
110.	School Equipment Production Unit (SEPU)
111.	Society of Professionals with Visual Disabilities (SOPVID)
112.	South Eastern Kenya University (SEKU)
113.	State Department for Correctional Services (PRISONS)
114.	State Department for Implementation of Curriculum Reforms (SDICR)
115.	State Department for Labour
116.	Universities Academic Staff Union (UASU)

Appendix 1.2: Institutions Visited During County Consultative Meetings

S/NO	COUNTY	INSTITUTION NAME	CATEGORY
1.	Mombasa	Aga Khan Nursery School	Private ECDE
		Kongowea Primary Nursery School	Public ECDE
		Kwa Jomvu Primary School	Public Primary
		Shelly Academy Primary School	Private
		Mrima Primary School	Public Primary
		Star of the Sea Primary School	Public Primary
		Mrima Mixed Secondary School	Public
		Changamwe Secondary School	Public
		Mama Ngina Girls High School	Public
		Mbaraki Secondary School	Public
		Kongowea Mixed Secondary School	Public
		Shimo La Tewa High School	Public
		Likoni Salvation Army School For the Blind	Public Special
		Mombasa Secondary School for the Physically Handicapped	Public Special
		Shanzu Teachers Training College	Public TTC
		Mikindani Teachers Training College	Public TTC
2.	Kwale	Kwale Primary ECDE School	Public ECDE
		Shamu Primary ECDE School	Public ECDE
		Kwale Primary School	Public Primary
		Moyeni Primary School	Public Primary
		Shamu Primary School	Public Primary
		Mvindeni Mixed Secondary School	Public
		Lulu Boys High School	Private
		Mekaela Academies	Private
		Dr. Babla Diani Girls Secondary School	Public
		Ngozi Girls High School	Public
		Kwale High	Public
		Kwale Girls	Public
		Moyeni Girls	Public
		Kwale Primary School for HI	Public Special
		Kwale Primary School for the HI	Public Special
		TUM Kwale Campus	Public University
		Ziwani VTC	Public Vocational
		Ukunda VTC	Public Vocational
		Msambweni VTC	Public Vocational

S/NO	COUNTY	INSTITUTION NAME	CATEGORY
3.	Kilifi	Masemo Primary	Public Primary
		Kilimo Primary	Public Primary
		Kilifi Primary	Public Primary
		Mijomboni Primary	Public Primary
		Ganze Girls	Public
		Ganze Boys	Public
		Bahari Girls	Public
		Marafa Boys	Public
		Magarini Girls Secondary	Public
		Kakuyuni Boys Secondary	Public
		Kakoneni Girls Secondary	Public
		Galana Teachers Training College	Public TTC
		Ganze VTC	Public Vocational
		Marafa Vocational Training Centre	Public Vocational
		Jilore VTC	Public Vocational
4.	Tana River	Rafiki ECDE	Public ECDE
		Delta Mustad Seed Academy	Private
		Rafiki Private	Private
		Holy Angels	Private
		Danisa Primary	Public Primary
		Mau Mau Girls	Public
		Hola Boys	Public
		Lisa Hola	Public Special
5.	Lamu	Mtangwanda	Public Primary
		Patte Primary	Public Primary
		Kizingitini Boys Primary	Public Primary
		Bargoni Primary	Public Primary
		Bobo Primary	Public Primary
		Manda Primary	Public Primary
		Manda Primary	Public Primary
		Shella Primary	Public Primary
		Bright Girls Shella Primary	Private
		Mpeketoni High School	Public
		Witu Mjini	Public
		Patte Girls	Public
		Hindi Secondary	Public

S/NO	COUNTY	INSTITUTION NAME	CATEGORY
		Manda Airport Secondary	Public
		Lamu Special	Public Special
		Lamu East Technical Vocational College	Public Technical
		Lamu VTC	Public Vocational
6.	Taita Taveta	Mwanyambo Pre-Primary School	
		Mwanyambo Primary School	
		Mwanyambo Special School for the Deaf	Public Special
		Ngami Secondary School (Mixed Day and Board)	Public
		Mwanjila Vocational Training Centre	
		Taita Taveta University	
7.	Garissa	NEP Girls High School	Public
		Garissa TTC	Public
		Iftin girls Secondary School	Public
		Jarirot Primary School	Public
		Garissa University	Public
8.	Wajir	Wajir Primary School for the Deaf	Public Special
		Wajir Primary Integrated School	
		Furqan Integrated Secondary School	
		Ahmed Liban Secondary School	Public
9.	Mandera	Mandera DEB Primary	Public
		Elimu Bora Academy	Public
		Mandera Junior Integrated Academy	Private
		Komar Mixed Secondary School	Public
		Mandera School for the Deaf	Public Special
		Mandera Teacher Training College	Public
		Mandera Technical Training Institute	Public
10.	Marsabit	Laisamis Technical and Vocational Training	Public
		Bishop Cavallera Girls Secondary School	Private
		SKM Public Primary School	Public
		St. Theresa's Girls Primary School	Public
		Little Angels Preparatory School	Private
		Manyatta Jillo Primary School	Public
		Dibayu High School	Public
		Loglogo Muslim Primary	Public
		Moyale Boys High School	Public
		Holare Primary - Moyale	Public
		Moyale Special School for the Hearing Impairment	Public Special
		Adult Education Centre	Public

S/NO	COUNTY	INSTITUTION NAME	CATEGORY
		Karare Mixed Secondary School	Public
11.	Isiolo	Waso Primary School – Public Primary School	Public
		Waso Secondary	Public
		Little Angels School – Private Primary School	Private
		St. Mary's Secretarial College	
		Ngaremara Secondary School	Public
		Manyatta Zebra Primary School	
		Ngaremara Integrated Primary School	
		Bishop Lokhat Technical and Vocational Training Centre	
		Kiwanjani Primary	
		Isiolo School for the Hearing Impaired	Public Special
12.	Meru	St Lawrence Igoji Teacher Training College	Public
		Nkubu High School	Public
		Kianthumbi Primary School	Public
		Citen Elite Academy	Private
		Kinjo Girls Secondary School	Public
		Kiirua Technical Institute	Public
		Meru National Polytechnic	Public
		Miathene Boys	Public
		Kunene Special School	Public Special
		Kenya Methodist University	Private
13.	Tharaka Nithi	Rwatha Primary School	Public
		Gatue Mixed Secondary School	Public
		Thiiti Primary School – Public Primary School	Public
		Chuka Girls High School	Public
		Chuka University	Not sure
		Ikuu Special School	Public Special
		Chogoria Girls School	Public
		Muraga TTI	Not sure
		Kieganguru Primary School	Public
		Chogoria Complex Primary School	Private
		Tharaka University	Public
14.	Embu	Siakago Girls High School	Public
		Jeremiah Nyagah Technical Institute	Public
		University of Embu	Public
15.	Kitui	Central Primary School	Public
		SNE Unit – Kitui Central Primary for Visually Impaired Learners	Public Special

S/NO	COUNTY	INSTITUTION NAME	CATEGORY
		Central Primary School for the Visually Impaired	Public Special
		St. Michael Primary School – Private Boarding & Day	Private
		SEKU University	Public
		Syongila VTC	Public
16.	Machakos	Muthuni Primary School	Public
		Masaku School for the Physically Disabled	Public Special
17.	Makueni	UNOA Primary School	Public
		Makueni Girls Secondary School	Public
		Makueni Boys High School	Public
		Makueni GK Prison Adult Class	Public
		Wote TTI	Public
		SEKU – Wote Campus	Public
18.	Nyandarua	Ol Kalou ECDE Center	Public ECDE
		Nyandarua National Polytechnic	Public Technical
		Ol Kalou Primary	Public
		Wanjohi Girls Secondary School	Public
		Nyandarua School for the Deaf	Public Special
19.	Nyeri	Kiriko ACE Center	Public ACE
		Chaka ECDE Center	Public ECDE
		Chaka Primary	Public
		Kiriko Primary	Public
		Rware Mixed Day Secondary	Public
		Kagumo High School	Public
		Rev. Muhoro Mixed Secondary School for the Deaf	Public Special
		Kagumo Teachers College	Public TTC
		Dedan Kimathi University of Technology	Public University
20.	Kirinyaga	Barichu ACE Centre	Public ACE
		Riamu Primary ECDE Centre	Public ECDE
		Riamu Primary	Public
		Effort Junior and Senior Academy	Public
		Kianyaga Boys	Public
		Nyangati Mixed Secondary School	Public
		Riamu Primary SNE Unit	Public Special
		Kaitheri VTC	Public Vocational
21.	Murang'a	Murang'a ACE Centre	Public ACE
		Kitito Primary	Public
		Gititu Mixed Secondary Day and Boarding	Public
		Murang'a High	Public

S/NO	COUNTY	INSTITUTION NAME	CATEGORY
		Michuki TTI	Public Technical
		Mutang'a University of Technology	Public University
22.	Kiambu	Kiambu Township Primary-ECDE	Public ECDE
		Kiambu Township Primary	Public
		Alliance Girls High	Public
		Kiambu Township Primary-SNE unit	Public Special
		Joy Town Mixed Special Secondary School	Public Special
		Thogoto Teachers College	Public TTC
		Kiambu Institute of Science and Technology	Public Technical
		St Paul's University	Private University
		Kamirithu Youth polytechnic	Public Vocational
23.	Turkana	St Benadette School For The Hearing Impairment	Public Special
		Cannan Primary	Public
		Lodwar Technical And Vocational College	Public
		Turkana University	Public
		Lodwar High School	Public
24.	West Pokot	Psigirio Ecde	Public
		Psigirio Primary School	Public
		St Francis School for Vi	Public Special
		Rev Murupus Private School, ECDE, Primary, Secondary and TTC	Private
		Rev Murupus Private School, ECDE, Primary, Secondary and TTC	Private
		Rev Murupus Private School, ECDE, Primary, Secondary and TTC	Private
		Rev Murupus Private School, ECDE, Primary, Secondary and TTC	Private
		West Pokot TTC (Private)	Private
		Tartar Girls Kapenguria	Public
25.	Samburu	Maralal High	Public
		Kisima Girls	Public
		AIC Moi Girls	Public
		Kirisia Boys	Public
		Samburu Mixed	Public
		Mwangaza Mushi Mixed	Public
		Maralal Mixed	Public
		SNE- Seneiya Special	Public Special
		Maralal VTC	Public

S/NO	COUNTY	INSTITUTION NAME	CATEGORY
26.	Trans Nzoia	Matisi ECDE	Public
		Matisi Primary School	Public
		Endebess Primary School	Public
		Endebess Physical Challenged	Public Special
		Legacy Academy	Private
		St Joseph Girls Kitale	Public
		Kitale Polytechnic	Public
27.	Uasin Gishu	Sosian ECDE	Public
		Sosian Primary	Public
		Sosian Autism Unit	Public Special
		Sosian Primary Two	Public
		Moi University	Public
		Moi University Secondary School	Public
		Madona TTC	Public
		Kapkenduiywo Primary	Public
		Illula Sne	Public Special
		Koshin Technical Training Institute	Public
28.	Elgeyo Marakwet	Tambach TTC	Public
		Kipsoen Technical	Public
		Lorna High Altitude Camp	Not sure
		St Patrick Iten High School	Public
		Midiliwo SNE for Mentally Handicapped	Public Special
		Iten Primary	Public
		Iten ECDE	Public
29.	Nandi	University of Eastern Africa Baraton	Public
		Koitaleel Samoei University College	Public
		Kobujoi Institute of Development Studies	Public
		Serem Boys Secondary	Public
		Kapsabet School for the Deaf (Primary and Secondary)	Public Special
		Kaiboi Technical Training Institute	Public
		Nandi Hills Primary School	Public
		Taito KTGA Secondary School	Public
		Mosoriot TTC	Public
30.	Baringo	Lingarua	Public
		Ngambo	Public
		Lake Baringo	Public
		Marigat Integrated	Public

S/NO	COUNTY	INSTITUTION NAME	CATEGORY
		Kabarnet Deaf/blind	Public Special
		Baringo Technical Training Institute	Public
		Moi Teachers College-Baringo	Public
		Ossen Girls High school	Public
31.	Laikipia	Nanyuki School	Public
		St. Judy Girls Secondary School	Public
		St. Mary's (Private School) - ECDE Centre	Private
		Leakey Special School for the Mentally Challenged	Public Special
		Laikipia East Open Learning Programme	Public
		Nanyuki Vocational Training Centre	Public
		Thome Boys	Public
		Laikipia East Technical and Vocational College	Public
32.	Nakuru	Kabarak University	Private
		Njoro Boys	Public
		St. Josephs Catholic Primary School	Private
		Nakuru Teachers Training College	Public
		Rift Valley Institute of Science and Technology	Public
		Egerton University	Public
		Christ the King Primary School	Private
33.	Narok	NACECA High school (ACE)	Public
		Maasai Mara University	Public
		Masikonde Primary School	Public
		Masikonde Special Unit	Public Special
34.	Kajiado	Nkoile Primary School	Public
		Acacia Crest Academy	Private
		Isinya Multi Purpose Technical Training Institute	Public
35.	Kericho	Sitiani Primary School (Public)	Public
		Kedowa Special Secondary School for the Deaf	Public Special
		Kimasian Boys Secondary School (County School)	Public
		Kabianga Boys High (National) School	Public
		Kericho TTC	Public
		University of Kabianga.	Public
36.	Bomet	Longisa Boys	Public
		Bomet University	Public
		Sunshine Academy	Private
		Bomet Township DEB Primary School	Public
		SOT Technical Training Institute	Public

S/NO	COUNTY	INSTITUTION NAME	CATEGORY
37.	Kakamega	Christ the King Academy	Private
		Sigalagala National Polytechnic	Public
		Mukumu Boys Secondary	Public
		Kivaywa Boys Secondary	Public
		Jamia Mosque	
		Butere Girls	Public
		Eregi TTC	Public
		Arc-Bishop Njenga Lugari	Public
		Maturu SNE	Public
		Kakamega Primary	Public
		St. Angela School for the Deaf	Public
		Masinde Muliro University	Public
		St. Joseph Academy	Private
38.	Vihiga	Kaimosi SNE – For the Mentally Handicapped	Public Special
		Kaimosi Friends University - KAFU	Public
		Kaimosi TTC	Public
		Chavakali Boys High	Public
		Bunyore Girls	Public
		KIMA Primary	Public
		Friends Kaimosi TTI	Public
		Kaptik Boys Secondary	Public
39.	Bungoma	Kibabii University	Public
		Luakhakha SA	Public
		Lukhokhwe Primary	Public
		Chebukuyi Secondary School	Public
		Sirisia Special School for Mentally Handicapped	Public Special
		Chwele Girls High School	Public
		Makunga S.A Mixed Secondary	Public
		Chema Academy	Private
40.	Busia	St Mary's Primary school	Public
		Butula Boys	Public
		Butula VTC	Public
		Kings Academy	Private
		St Bridgit Akoreet Secondary School for Deaf and Vocational Training	Public Special
		St Paul's Amukura Boys Secondary School	Public
		Malaba Township Primary School	Public
		St Cecilia Nangina Girls	Public

S/NO	COUNTY	INSTITUTION NAME	CATEGORY
		Nagina mixed Primary	Public
		Bunyala Technical & Vocational College	Public
		St Anne Musoma Mixed Secondary	Public
		Busia Teachers Training College	Public
		Busia Prison- Adult Education and Vocational Training Centre	
		Alupe University	Public
41.	Siaya	Uriri Primary ECDE	Public ECDE
		Uriri Primary	Public
		Horace Ongili Mixed Day	Public
		St Francis Rang'ala Girls S.S.	Public
		Nyamira Girls S.S.	Public
		Ugenya TTC	Public TTC
		Mahaya TTI	Public Technical
		Sega VTC	Public Vocational
		Mahaya VTC	Public Vocational
42.	Kisumu	Pandpieri Primary ECDE	Public ECDE
		Shauri Moyo Primary ECDE	Public ECDE
		Pandpieri Primary School	Public
		Shauri Moyo Primary	Public
		Kisumu Girls High School	Public
		Karanda Mixed Day	Public
		Seme TTC	Public TTC
43.	Homa Bay	Rambusi Primary ECDE	Public ECDE
		Nyamuga Primary ECDE	Public ECDE
		Asego ECDE	Public ECDE
		Rambusi Primary	Public
		Nyamuga Primary	Public
		Onywera Boys High School	Public
		Mbita High School	Public
		Homa Bay Boys High School	Public
		Orero Boys' H.S	Public
		Ogande School for the MH	Public Special
		Asumbi TTC	Public TTC
		St Joseph's TTI Asumbi	Public Technical
		Tom Mboya University	Public University
44.	Migori	Kanyakech Primary ECDE	Public ECDE
		Nyamosense Primary ECDE	Public ECDE

S/NO	COUNTY	INSTITUTION NAME	CATEGORY
		Kanyakech Primary	Public
		Nyamosense Primary	Public
		Nyametaburo Mixed Day and Boarding	Public
		Nyabuhanse Girls' H.S	Public
		Kuja Primary for HI	Public Special
		Nyamosense Primary for HI	Public Special
		Migori TTC	Public TTC
		Rongo University	Public University
		Awendo Marindi VTC	Public Vocational
45.	Nyamira	Nyairichia Special School	Public
		Nyambaria Boys	Public
		Tonga Primary School	Public
		Nami Secondary School	Public
		Borabu Technical Training Institute	Public
46.	Kisii	Nduru DEB Primary ECDE	Public ECDE
		Tendere Primary ECDE	Public ECDE
		Nduru DEB Primary	Public
		Tendere Primary	Public
		Emenwa Primary	Public
		Itierio Girls High School	Public
		St. Mary's Nyamagwa Girls	Public
		Kenyenya TTC	Public TTC
		Mt. Kenya Campus	Private University
47.	Nairobi	Kasarani tree side school for the deaf	Public Special
		Kasarani tree side special school	Public Special
		PAC University	Private
		Nairobi Technical Training Institute	Public
		Moi avenue Primary school	Public
		Olympic Primary school	Public
		Mukarara Primary school	Public
		Strathmore University	Private

Appendix 2.1: Learning Areas in Basic Education

LEVEL	LEARNING AREAS/ SUBJECTS
Pre-Primary (PP1 & 2)	(i) Language Activities. (ii) Mathematical Activities. (iii) Psychomotor and Creative Activities (Music & Movement is included here). (iv) Environmental Activities. (v) Religious Education Activities (CRE/HRE/IRE).
Lower Primary (Grade 1-3)	(i) Literacy. (ii) Indigenous language activities/ Braille Literacy Activities. (iii) Kiswahili Language Activities/ Kenya Sign Language for learners who are deaf. (iv) English Language Activities. (v) Mathematical Activities Environmental Activities. (vi) Hygiene and Nutrition Activities. (vii) Environmental Activities. (viii) Religious Education Activities. (ix) Movement and Creative Activities.

LEVEL	LEARNING AREAS/ SUBJECTS
Upper Primary (Grade 4-6)	(i) English. (ii) Kiswahili or Kenya Sign Language (for learners who are deaf). (iii) Home Science. (iv) Agriculture. (v) Science and Technology. (vi) Mathematics. (vii) Religious Education (CRE/ IRE/ HRE). (viii) Creative Arts. (ix) Physical and Health Education. (x) Social studies. **Optional** (xi) Foreign Languages (Arabic, French, German, Mandarin). (xii) Indigenous Languages.

Junior Secondary (Grade 7-9)	**Core Subjects** (i) English (ii) Kiswahili or Kenya sign language for learners who are deaf (iii) Mathematics (iv) Integrated Science (v) Health Education (vi) Pre-Technical and Pre-Career Education (vii) Social Studies (viii) Religious Education (IRE/ CRE/ HRE)
Junior Secondary (Grade 7-9)	**Core Subjects** (ix) Business Studies (x) Agriculture (xi) Life Skills (xii) Sports and Physical Education **Optional** (i) Visual Arts (ii) Performing Arts (iii) Home science (iv) Computer Science (v) Foreign Languages (German/ French/ Mandarin/ Arabic) (vi) Kenya Sign Language (vii) Indigenous languages **NB: ICT will be a delivery tool for all Subjects.**
Senior Secondary (Grade 10-12)	*Subjects Provided under three path ways, namely:* (i) Arts and Sports Sciences pathway (ii) Social Sciences Pathway (iii) Science Technology Engineering and Mathematics pathway
	Subjects in Senior School Core Subjects: (i) Community Service Learning (ii) Physical Education

1. Arts and Sports Science Pathway	**(a) The Arts Core subjects**
	   (i) Legal and Ethical issues in Arts
	   (ii) Communication Skills
	Optional Subjects
	The learner will be required to take one of the following subjects:
	(i) Performing Arts
	   • Music
	   • Dance
	   • Theatre and Elocution

	(ii) Visual and Applied Arts • Fine Art • Applied Art • Time-Based Media • Crafts **(a) Sports Science** Core Subjects (i) Human Physiology (ii) Anatomy and Nutrition (iii) Sports Ethics **Optional Subjects** (i) Ball Games (ii) Athletics (iii) Indoor Games (iv) Gymnastics (v) Water Sports (vi) Boxing (vii) Martial Arts (viii) Outdoor Pursuits (ix) Advanced Physical Education
2. The Social Sciences Pathway	**(a) Humanities** (i) History and Citizenship (ii) Geography (iii) Christian Religious Education (iv) Islamic Religious Education (v) Hindu Religious Education (vi) Business Studies vii. Mathematics **(b) Languages** (i) English Language (ii) Literature in English (iii) Lugha ya Kiswahili (iv) Fasihi ya Kiswahili (v) Kenyan Sign Language (vi) Indigenous Languages (vii) Arabic (viii) French (ix) German (x) Mandarin
	(c) Business Studies

3. The Science, Technology, Engineering and Mathematics Pathway	**(a)** **Pure Sciences Core subjects** (ii) Community Service Learning (iii) Physical Education (iv) ICT **Optional :** The learner will select a minimum of three of the following **subjects**: (i) Mathematics (ii) Physics (iii) Chemistry (iv) Biology **(b)** **Applied Sciences Core Subjects** (i) Community Service Learning (ii) Physical Education (iii) ICT **Optional: In addition, the learner shall select one of the following subjects:** (i) Agriculture (ii) Computer Science (iii) Foods and Nutrition (iv) Home Management **(a) Technical and Engineering** **Core Subjects** (i) Community Service Learning (ii) Physical Education (iii) ICT (iv) Mathematics (v) Physics/ Physical Sciences (vi) Chemistry/ Biology/ Biological Sciences **Optional: The learner shall in addition select one of the following subjects:** (i) Agricultural Technology (ii) Geosciences Technology (iii) Marine and Fisheries Technology (iv) Aviation Technology (v) Wood Technology (vi) Electrical Technology (vii) Metal Technology (viii) Power Mechanics (ix) Clothing Technology (x) Construction Technology (xi) Media Technology (xii) Electronics Technology

	(v) Manufacturing Technology
	(vi) Mechatronics
	(b) Career and Technology Studies (CTS)
	Core Subjects
	(i) Community Service Learning
	(ii) Physical Education
	(iii) ICT
	Optional: The learner shall in addition select one of the following subjects:
	(i) Garment Making and Interior Design
	(ii) Leather Work
	(iii) Culinary Arts
	(iv) Hair Dressing and Beauty Therapy
	(v) Plumbing and Ceramics
	(vi) Welding and Fabrication
	(vii) Tourism and Travel
	(viii) Air Conditioning and Refrigeration
	(ix) Animal Keeping
	(x) Exterior Design and Landscaping
	(xi) Building Construction
	(xii) Photography
	(xiii) Graphic Designing and Animation
	(xiv) Food and Beverage
	(xv) Motor Vehicle Mechanics
	(xvi) Carpentry and Joinery
	(xvii) Fire Fighting
	(xviii) Metalwork
	(xix) Electricity
	(xx) Land Surveying
	(xxi) Science Laboratory Technology
	(xxii) Electronics
	(xxiii) Printing Technology
	(xxiv) Crop Production

Source: Basic Education Framework (2019)

Appendix 3.1: Global, Regional and National QAS Practices in Selected Countries

QUALITY ASSURANCE AREA	COUNTRY	COUNTRY SUMMARY
Autonomy level	Singapore	Centralised and National
	UK	National (Centralised)
	India	Centralised and Decentralised
	Finland	Decentralised to local, regional, municipal and school level
	USA	Decentralised to states and school districts
	South Africa	National independent body anchored in Law- the General and Further Education and Training Quality Assurance Act, 2001 (GENFETQA Act).
	Ghana	National
	Kenya	National and decentralised to regional, County, and Sub-County level.

QUALITY ASSURANCE AREA	COUNTRY	COUNTRY SUMMARY
Types of Inspection	Singapore	Internal and External
	UK	Internal and External
	India	Internal and external
	Finland	Internal school self-evaluation, Municipal authorities licence, and monitor, external inspection in response to complaints
	USA	Internal and external
	South Africa	Internal and external
	Ghana	External inspection
	Kenya	Internal using School Assessment Tools (SAT), peer review, and external
	Singapore	Internal QAS report shared with teachers, and external QAS report shared with the education office.
	UK	OfSTED reports to Parliament, parents, careers, and commissioners
	India	An online system with data reviewed in real-time
	Finland	Reports focus on compliance with regulations on, among others, hygiene, safety, and staff.

QUALITY ASSURANCE AREA	COUNTRY	COUNTRY SUMMARY
Reporting process	South Africa	Reports relating to norms and standards of curriculum and assessments are available online.
	Ghana	Inspector takes action to rectify deficiencies in schools within their circuits.
	Kenya	Reports disseminated to schools, management boards, and Ministry of Education Senior Management. NEQASF within NEMIS.
Rewards	Singapore	Promotions and rewards
	UK	Schools are graded based on performance: 1 – Outstanding grade, 2 – Good grade, 3 – Requires improvement grade, and 4 – Inadequate.
	India	No rewards; QAS is to promote continuous improvement.
	Finland	No rewards, QAS focused on school improvement and informing policy.
	USA	Promotions, training, scholarships and monetary awards.
	South Africa	Recognising and accreditation support for complying programs, training and professional development.
	Ghana	Promotions
	Kenya	Legal provisions for voluntary compliance with limited implementation.
Sanctions	Singapore	Warnings and interdictions.
	India	No sanctions
	Finland	No sanctions
	USA	Issuance of warnings, suspension of licence and dismissal.
	South Africa	Revoking accreditation, fines and warnings issued.
	Ghana	Interdictions and suspension
	Kenya	No sanctions

Quality Assurance Area	Country	Country Summary
Monitoring, Evaluation, and Learning	Singapore	SEAB gives three examinations to place students, PISA.
	UK	PIRLS; PISA and TIMSS.
	India	PISA (rejoined 2021).
	Finland	PISA
	USA	PISA
	South Africa	INQAAHE, SAQN, TIMSS, PIRLS
	Ghana	West African Examination Council regional assessments.
	Kenya	SAQMEC
Human Resources	Singapore	Well-resourced and structured with continuous training of QAS officers.
	UK	1,800 employees across eight regions.
	Finland	Central, regional, and local government authorities or charitable organisations provide training for school improvement.
	South Africa	Staff training and development, support for staff well-being, promotion of diversity and inclusion in the workplace.
	Ghana	Inadequate inspection staff and infrastructure.
	Kenya	Significant HR shortages (2148 officers) and recruitment by the Public Service Commission (PSC) from a pool of practicing teachers.
Financing	Singapore	The Government provides funding to the department through the Ministry of Education.
	UK	Annual budget: £168 million (2013–14) and £130 million (2018–2019).
	Finland	National/ Municipal authorities financing based on school improvement plans.
	USA	Federal financial aid for education, State funding through school district taxes and private funders.
	South Africa	Funding by the Government from the National Budget.

Quality Assurance Area	Country	Country Summary
	Ghana	Low funding from Government makes it ineffective.
	Kenya	Funded by the Treasury at Ksh 35million but has significant financial resource shortages.
Evaluation and Assessment of Teachers	Singapore	Summative, formative, diagnostic, benchmarking and continuous assessment.
	India	School assessment aims to improve learner performance.
	Finland	Internal self-assessments of staff performance. Peer evaluations, tailored assessment tools and instruments.
	USA	Teachers are evaluated once a year by School Principals using predefined evaluation criteria.
	South Africa	No single government body regulates teachers in South Africa. Instead, teacher evaluations are conducted by schools or education districts.
	Ghana	Full assessment of teachers - formative and summative teacher assessment.
	Kenya	A lesson observation using a digitised tool and the report is shared with the teacher and School Heads.

Appendix 3.2: Key Stakeholder Collaborations and Linkages in Education Quality Assurance and Standards

S/NO.	INSTITUTION	FUNCTIONS	AREAS OF COLLABORATION
1	**TSC**	• Manage teacher's professional development and appraisal.	• Recruit and post teachers for curriculum implementation. • Appoint school management and administration. • Share assessment reports. • Enforcement of QAS reports • Performance appraisal of teachers and head teachers.
2	**KNEC**	• Development and administration of national assessments and examinations.	• DQAS quality assures the development and administration of national assessments and examinations. • Attestation of academic certificates. • DQAS chairs the subject panels • DQAS is a member of the KNEC board.
3	**KICD**	• Develops and reviews curriculum. • Evaluates learning and teaching materials (LTMs).	• DQAS quality assures the curriculum development process as chair of the various subject panels. • Quality ensures the evaluation of learning and teaching materials (LTMs).
4	**KEMI**	• Trains education managers and administrative staff capacity building of education officers.	• DQAS collaborates with KEMI in the training activities of instructional leadership i.e. CEBs, BoMs, QASOs and Education Officers.
5	**CEMASTEA**	• Capacity building of teachers in mathematics and science pedagogical skills. • Undertakes research in science and mathematics.	• DQAS participates in CEMASTEA of in servicing teachers.
6	**TVETA**	• Regulates and coordinates. • TVET training through. • Licensing, registration and • Accreditation of programs, • Institutions and trainers.	• Share information on regulations regarding quality in education.
7	**CUE**	• Regulates and assures quality in University Education.	• Share information on QAS regulations regarding quality in education.

S/NO.	INSTITUTION	FUNCTIONS	AREAS OF COLLABORATION
8	**Public Works office**	• Develop and implement standards for the buildings.	• Development of Education standards for critical infrastructure and safety of learners. • Assessment of schools for purposes of registration and compliance to set standards.
9	**Public Health Officers**	• Inspect and enforce health quality standards.	• Development of school health policy and guidelines. • Monitoring of health standards maintained by education institutions. • Assessment of schools for registration and investigative purposes.
10	**Children's services**	• Implementation and enforcement of children protection laws and guidelines.	• Monitoring and assessment of schools to investigate children's welfare issues.

Appendix 3.3: Roles and Responsibilities of the Directorate of Quality Assurance and Standards in MoE and TSC

MoE	TSC

1. Ensure Standards and Maintain Quality in Institutions of Basic Education and, to the following functions;
  (a) Establish, maintain and improve institution-based quality assurance;
  (b) Promote standardisation in basic education and training;
  (c) Ensure standards in the development of curriculum;
  (d) Carry out standards assessment
  (e) Initiate Audit of accounts
  (f) Carry out research
2. Administer Policies and Guidelines set for Basic Education. In addition, the following are the accompanying functions:
  (c) Enforce guidelines, rules and regulations.
  (d) Recommend temporary suspension of operations of institutions
  (e) Certification of professional/academic documents.
  (f) Prescribe staffing norms (CBE)
  (g) Publishing an approved list of Institutions
  (h) Advising the Cabinet Secretary on quality
  (i) Make recommendations to the appropriate authorities
3. Supervise and Oversee Curriculum Implementation and Delivery to the following functions:
  (a) Oversee the vetting of books and other curriculum support materials and maintain a list of approved instructional materials;
  (b) Vet expatriate and volunteer teachers, individuals, groups, and organisations wishing to visit and work with Basic Education and training institutions.
	1. Ensure compliance with professional and ethical standards among institution heads and all teachers in the teaching service;
	2. Ensure institution heads and teachers adhere to the values and principles of Public Service and promote the Teachers Service Commission's image and core values;
	3. Maintain and enforce teacher registration in all educational institutions;
	4. Monitor the performance of heads of institutions and teachers and supervise teacher appraisal;
	5. Carry out routine, advisory, and investigative standards assessments about teacher performance and compile appropriate reports;
	6. Initiate, coordinate, and conduct capacity building courses for teachers for effective and quality teaching;
	7. Coordinate quality assurance programmes in the Counties;
	8. Continuously support teachers to comply with standards as specified in TSC Act, the Code of Regulations for Teachers, Basic Education Act, KICD Act, KNEC Act and any other relevant legislation;
	9. Ensure compliance with teaching standards by preparation and use of professional teaching resources;
	10. Analyse national examinations and continuous assessment results and propose appropriate interventions and supervise the implementation of recommendations from evaluation reports;

MoE	TSC
4. Monitor the Conduct of Assessments and Examinations in Institutions of Basic Education for the following functions – Ensure standards in curriculum evaluation; Monitor the conduct of national examinations; (a) Externally assess teacher education final teaching practice (b) Monitor the application of standards in developing and administering continuous assessment tools for Basic Education and training. 5. Monitor and evaluate the standards and quality in Basic Education to: (a) Continuous monitoring of all programmes; (b) Provide timely feedback for decision-making purposes; (c) Monitor, assess and review policies on standards (d) Collect, examine, and publish information related to Quality and Standards (e) Coordinate the management of the DQAS data and statistics;	11. Liaise with the County Director of Education and other stakeholders on matters relating to the quality of education in the County; 12. Perform any other duties assigned by the County Director.

Source: Ministry of Education, 2020.

Appendix 3.4: Deployment of Officers in the Directorate of Quality Assurance and Standards by Job Group and Workstation as of March 2023

S.NO.	DEPLOYED WORKSTATION	JOB GROUP AND NO OF OFFICERS					
		S	R	P	N	L	T
1	At the MoE Directorates' Headquarters.	1	18	13	0	0	32
2	At the Directorates' Regional Office.	7	2	2	0	0	11
3	At the Directorates' County Office.	0	21	49	3	0	73
4	At the Directorates' Sub-County Office.	0	13	235	16	3	267
5	In Administration as Regional Director of Education.	0	1	0	0	0	1
6	As County Director of Education.	0	1	2	0	0	3
7	As Sub-County Director of Education.	0	2	56	2	0	60
8	Seconded to other Directorates.	0	1	4	2	0	7
9	Seconded to National Council for Nomadic Education in Kenya (NACONEK).	0	1	0	1	0	2
10	Seconded to the Education Tribunal.	0	1	0	0	0	1
11	Seconded for other duties outside MoE.	0	3	2	0	0	5
	Total	**8**	**64**	**363**	**24**	**3**	**462**
	Grand Total	**462**					

Note: Appendix 3.3 demonstrates that an additional 2,148 QAS officers are required.

Appendix 4.1: Summary of Global and Regional Teacher Education Practices

(a) Teaching as a Profession	
Country	Teacher Education Practices
Finland	Teaching as a profession is very popular among high school graduates, but getting into Teacher Training programs is a competitive process, with only 10% of the applicants being accepted into Teacher Training programs every year; the competitive nature of the admission policy of Teacher Education programs results in having only the most motivated of all applicants as prospective teachers (Kaiser, 2005; Sahlberg, 2007).
Shanghai, China	Only excellent teachers can educate excellent students; the teaching profession is recognised and rewarded; Provisions for Rewarding Teachers and Educators; Teachers are certified after taking a National Teacher Certification course; Competitive attractive pay.
South Africa	To be employed as a Professional Teacher, one must be registered by the South Africa Council of Educators.
Kenya	Teaching in Kenya comes with a responsibility and duty towards students. Teachers teach learners to acquire knowledge but more so motivate and inspire students.
(b) Level of Education offering Pre-service Teacher Education	
Finland	Master's Degree.
Shanghai, China	Three-year Tertiary College degree (da zhuan, equivalent to the International Standard Classification of Education [ISCED] 5B level); Secondary teachers need to have at least a four-year Bachelor's degree (equivalent to the ISCED 5A level).
South Africa	In South Africa, Qualifications for Initial Teacher Education is a Bachelor of Education degree (NQF Level 7), Advanced Diploma in Education (NQF Level 7). Postgraduate Diploma in Education (NQF Level 8) Bachelor of Education Honours degree (NQF Level 8), Master of Education degree (NQF Level 9) and Doctoral degree (NQF Level O).
Singapore	Diploma in Education, Bachelor of Arts PGDE (Primary), PGDE (Secondary, PGDE (Junior College) and Diploma in Special Education. Include ECD in the whole table.
Kenya	Offered at the Diploma level for DECTE, DPTE, DSTE and DSNTE for 3 years; Bachelor's Degree (4 years), Masters and PHD are also offered.
(c) Admission Criteria in Pre-service Teacher Education	
Finland	In the Finland model, admission does not depend on academic achievements only BUT also on the applicant's interest to become a teacher. Requirement for entry into the teaching profession is a Bachelor's and Master's Degree.
Shanghai	In addition to the academic requirements in this model, all candidates must pass a written test to obtain the Teacher Certificate to be eligible to teach in Primary and Secondary Schools in Shanghai. In the recruitment process at the school level, candidates participate in interviews and a mock teaching assessment during which they teach a mini-lesson to demonstrate their teaching competencies.

South Africa	The entry criteria of this model are contained in the Minimum Requirements for Teacher Education Qualifications Policy, which is aligned to the 10-level National Qualifications Framework (SAQA) and the Higher Education Qualification Framework (CHE/HEQC).
Singapore	In this model, there exists a two-stage admission process of student teachers into NIE's initial teacher education programmes, which ensures stringent selection of qualified candidates. The first level is the shortlisting of candidates based on NIE's University admission criteria. The short-listed candidates are then individually interviewed by MoE as part of the selection process. NIE faculty members are also involved as members of the interview panels for the degree programmes. The interview panels assess the candidates' communication skills, interest in teaching, goals and aspirations, and willingness to learn. All successful candidates are then employed by MoE. Before they enrol at NIE for their initial Teacher Education training, all successful candidates are required to successfully complete a teaching stint in schools as Untrained Teachers. The purpose of the teaching stint is to further assess the suitability of the candidates to be teachers and to allow the candidates to have a better understanding of what is involved to be teachers. MoE provides all student teachers enrolled at NIE with monthly salaries/ stipends and tuition waivers.
Kenya	The Entry Criteria of this model are contained in the Minimum Requirements for Teacher Education Diploma in DECTE, DPTE KCSE mean grade C with C in the subject clusters of English, Mathematics, Kiswahili, 1 Science and 1 humanity. For DSTE, the entry requirement is a C+ (Plus) with C+ (Plus) in two teaching subjects. Pre-service Teacher Education (PTE) Curriculum offers integrated content and pedagogy - where the teacher learns content and how to teach it in an integrated manner. Bachelor's Degree entry is KCSE C+.

(d) Duration of the programme

Finland	The duration of the Pre-Service Teacher Education is 5 years
Shanghai	For Primary School Pre-Service Teacher Education, the duration 3 years, while for Secondary Education is 5 years.
South Africa	South Africa model 4-year programme for Qualifications for Initial Teacher Education, 4 years for Bachelor of Education degree (NQF Level 7) and Advanced Diploma in Teaching (NQF Level 7).
Kenya	A diploma in Pre-service Teacher Education in TTC is 3 years, while Bachelor's degree is 4 years.

(e) Teacher Education Standards

Finland	Standards aim at: • Developing the competence of teachers using a goal-oriented approach with an emphasis on Pedagogical competence, which aims at ensuring that students with the best capacity act as teachers and will be selected for teacher training; • Acquisition of broad-based basic competence and expertise, as well as develop their personal competence; • To promote collaboration and networking among educational institutions; • Strengthening of management and leadership training at Educational institutions and; • Research-based teacher Education.

Shanghai	• Setting Clear expectations for teachers; • Attracting the best into teaching; • Preparing teachers with useful training and experience and; • Matching Teachers' Skills with Students' Needs; • Leading teachers with strong principals; and • Monitoring teaching and learning, support teachers to improve instruction and motivating teachers to perform.
South Africa	The Teacher Education Standards are stipulated in the National Education Policy Acts (2000) Norms and Standards for teachers: • The standards prescribe teachers as a learning facilitator, • Interpreter and designer of learning programmes and materials, • Leader, administrator and manager, • Learner and lifelong researcher, • Community, civil and pastoral role model, assessor and learning areas specialist. The professional teacher standards are regulated by the South Africa Council of Educators (SACE).
Singapore	The Teacher Education Standards are based on the Graduates' Teacher Competence (GTCs) and GTC Framework (GTCF) for Trainee Teachers: • ASK Model (Attitudes, Skills and Knowledge) and • VSK Model (Values, Skills and Knowledge).
Kenya	Kenya has developed standards for in-service. Kenya Professional Teaching Standards (KePTS) have competency indicators that guide the intended learner's outcomes. • Teacher Promotes Professionalism throughout his/her career, • The teacher has pedagogical Content Knowledge and understanding of the Competency-Based Curriculum and how to implement it, • The teacher has knowledge of assessment and reporting, • Teacher Knows how to Create and Support Inclusive Education Practices, • Teacher knows and promotes comprehensive School Health and safety, • The Teacher has Knowledge of Financial Literacy Skills, and • The Teacher Knows and Promotes Instructional Leadership and administration,
(f) Teaching subjects/ learning areas	
Finland	• Grade 1-6 teachers who qualify as Class Teachers have majored in Science education and minored in other subjects. • In Grades 9 -12, teachers are specialised in specified subjects.
South Africa	The subject areas include: • Disciplinary learning or Subject matter knowledge, pedagogical learning, practical learning: • Teaching practice (Work Integrated Learning WIL); • Fundamental Learning (Communication Technologies ICT) and; • Situation Learning (Environment, policy, political and organisational context).

Singapore	• The teaching areas include: • Reflective skills and thinking dispositions, • Pedagogical skills, • People- and self-management skills, • Administrative and management skills, communication. • Reflective Skills • Facilitative skills, • Technological skills, innovation and entrepreneurship skills, • Social and emotional intelligence. Knowledge is necessary for 21st-Century competent teachers, includes self, pupil, community, subject content, Curriculum and pedagogy, educational foundation and policies, global and environmental awareness, as well as multicultural literacy.
Kenya	KePTS are a set of competency standards that describe what a Kenyan teacher should know and be able to do to enable all learners to acquire the expected different learning outcomes in the Curriculum listed below: • Standard 1: Teacher Promotes Professionalism throughout their Career. • Standard 2: The teacher has Pedagogical Content Knowledge and understanding of competency-Based Curriculum and how to implement it. • Standard 3: Teacher has knowledge on assessment and reporting (of performance). • Standard 4: Teacher Knows How to Create and Support Inclusive Education Practices (SNE, Integrated Learning and IEP). • Standard 5: Teacher knows and promotes comprehensive school health and safety. • Standard 6: Teacher has knowledge of financial literacy skills (keeping books of A/C, Investments. • Standard 7: Teacher knows and practices instructional leadership.
(g) Core Professional Courses	
Finland	The core professional courses are: • Academic disciplines, • Research Studies, • Pedagogical Studies, • Studies in Communication; • Language Information; • Communication Technologies.
Shanghai	Shanghai model proposes: • High subject knowledge in core subjects Math, Chinese and English, • Pedagogical skills, and • Practical experience inside the classroom (commonly six months' practice before graduation)
Germany	The proposed core professional areas include: • School pedagogy, • Educational Psychology, • Philosophy and/or Sociology of Education. • Compulsory regular school-based internships.

Kenya	Professional learning areas for Pre-service Diploma: • Child Development and Psychology • Sociological and Philosophical Foundations of Education • Professional learning Education • Historical and Comparative Foundations of Education • Curriculum Studies • Inclusive Education • Educational Leadership and Management • Research skills • Educational Assessment • Educational Resources • ICT Integration in Education • Micro-Teaching

Appendix 4.2: Comparison of Teacher Management Roles in Different Countries

S.NO.	TEACHER MANAGEMENT ROLES	FINLAND	SINGAPORE	SOUTH AFRICA	KENYA
1	Register trained teachers	Local Council	Local Council/ Teacher Professional Body	South African Council of Educators	Teacher Service Commission
2	Recruit registered teachers;	Municipal Council	Local Council	Local Council	Teacher Service Commission
3	Assign employed teachers to public institutions;	Municipal Council	Municipal Council	MoE / Province Council	Teacher Service Commission
4	Promote and transfer teachers	Municipal Council	Local Council	Local Council/ Province	Teacher Service Commission
5	Exercise disciplinary control over teachers;	Municipal Council	Local Council	Local Council/ Province	Teacher Service Commission
6	Terminate employment	Municipal Council	Municipal Council	MoE Province Council	Teacher Service Commission
7	Review the standards of education and training of persons entering the teaching service.	Professional Bodies working with Local Councils	Professional Bodies working with Local Councils	South Africa Council of Educators and MoE	Teacher Service Commission
8	Teacher Appraisal	Municipal Council	Municipal Councils	MoE/Province Council	Teacher Service Commission
9	Entry Criteria teaching profession	National Goals of Education (MoE)	National Goals of Education (MoE)	MoE/SACE/ Stakeholders	Teacher Service Commission
10	Teacher Professional Development and licensing	Municipal Council	Municipal Councils	SACE	Teacher Service Commission

Appendix 4.3: Current Enrolment in TTCs

TYPE	DECTE						DPTE							DSTE						GRAND TOTAL
	2021			2022			2021			2022				2021			2022			
	M	F	T	M	F	T	M	F	T	M	F	T	TOTAL	M	F	T	M	F	T	
Pre-service	274	1430	1649	298	1230	1528	293	328	621	52	72	124	3922	–	–	–	–	–	–	
Up-grade	65	122	181	23	258	281	0	0	0	295	808	1103	1565	–	–	–	–		–	
Total	339	1552	1830	321	1488	1809	293	328	621	347	880	1227	5487	684	764	1448	–	–	–	6935

Appendix 4.4: Summary of In-service Teacher Education Programmes in Kenya

In-service teacher education programmes; 1998- 2023 in Kenya

S. NO.	PROGRAMME	OBJECTIVE	SERVICE PROVIDER	TARGET GROUP	PERIOD	FUNDED BY
1	Strengthening Mathematics and Science in Secondary Education (SMASSE)	To establish the (a) perception of students about the effectiveness of the IBL approach	CEMASTEA	Mathematics and Science Education in Primary schools	1998, to-date	GoK & JICA Participants refunded transport
2	Strengthening Mathematics and Science Education (SMASE)	To enhance teacher's pedagogy and content knowledge in science and mathematics in Primary and Secondary Schools in Kenya	CEMASTEA	Primary and Secondary Science and Mathematics teachers	2003, to-date	GoK and JICA Participants refunded transport
3	Strengthening Mathematics and Science in Secondary Education (SMASSE)	To establish the (a) perception of students about the effectiveness of the IBL approach	CEMASTEA	Mathematics and Science Education in Primary schools	2003, to-date	GoK & JICA Participants refunded transport
4	School-Based Teacher Support System (SBTSS)	Improving numeracy and literacy among Early Grade Mathematics and Reading (EGMR).	CEMASTEA	Primary school teachers and teacher educators	2018-to 2020	World Bank Participants refunded transport
5	School-Based Teacher Support Port (SBTS)	Improving content mastery of learners and pedagogical skills of the teachers.	MoE	Early Grade Learners	2020-2021	GPE Participants refunded transport
6	TUSOME	Improving literacy among learners and pedagogical skills among teachers	MoE	Early Grade Reading	2016-2020	USAID Participants refunded transport
7	School-Based Teacher Support System (SBTSS)	The programme seeks to solve massive wastage at the upper Primary level leading to a lower transition at the Secondary school level.	TSC/MoE	Primary and Secondary Science, Mathematics, and English teachers	2018-2023	GPE World Bank Parti participants refunded transport

8	Continuous Professional Development (CPD)	To meet the Kenya Teacher Professional Development Teaching Standards (KePTS),	TSC outsourced providers	All teachers	2020 ongoing	Teachers pay Ksh. 6000 to complete the course
9	CBC Upgrading	The upgrade programme focuses on equipping teachers with CBC skills	TSC/MoE	Unemployed P1/Diploma Teachers		Students Fees
10	CBC Preparedness programme	The upgrade programme focuses on equipping teachers with CBC skills	KICD/TSC	Teachers in Primary schools	2020 ongoing	Government funded
11	Institutional Leaders and Managers	Build educational personnel's capacity to deliver Education services efficiently and effectively.	MoE	School Leadership; Education Managers	Ongoing	Participants pay for themselves
12	Teacher Induction, Mentorship and Coaching (TIMEC)	Aims at building teachers' competencies and skills as well as knowledge of laws, regulations, policies, procedures, values, and norms governing the teaching profession	TSC, KICD, KNEC Mentors are drawn from experienced registered teachers and successful professionals.	Newly recruited teachers, internship teachers, teachers with performance gaps, newly appointed institutional administrators, trainees in mentorship and coaching	For a one-year duration and ongoing	No payment
13	Other In-service training programmes	Not harmonised	NGOs, Private Sector Sponsors Researchers	Selected Teachers	Ongoing and un-regulat-ed	Individual/ institutions Participants refunded transport

Appendix 4.5: Current Teacher Establishment in Public Primary Schools, 2023 Showing Shortages by County

COUNTY	SCHOOLS	HEAD TEACHER	DEPUTY HEAD TEACHER	TEACHERS	TOTAL	ESTAB-LISH-MENT	VARIANCE
Baringo	722	849	685	5,511	7,045	6,634	411
Bomet	674	597	518	3,935	5,050	6,826	(1,776)
Bungoma	777	696	648	7,774	9,118	10,519	(1,401)
Busia	439	396	337	4,182	4,915	5,759	(844)
Elgeyo Marakwet	406	384	350	3,120	3,854	4,011	(157)
Embu	390	332	369	3,128	3,829	3,755	74
Garissa	195	192	51	734	977	1,775	(798)
Homa-Bay	873	817	606	5,921	7,344	10,140	(2,796)
Isiolo	112	107	85	877	1,069	1,083	(14)
Kajiado	470	453	370	2,955	3,778	4,943	(1,165)
Kakamega	895	774	719	9,273	10,766	13,688	(2,922)
Kericho	579	525	495	4,483	5,503	5,449	54
Kiambu	457	403	464	5,209	6,076	6,080	(4)
Kilifi	543	504	397	4,935	5,836	9,180	(3,344)
Kirinyaga	196	177	175	2,242	2,594	2,339	255
Kisii	707	597	567	6,187	7,351	8,275	(924)
Kisumu	608	561	490	5,179	6,230	10,547	(4,317)
Kitui	1,382	1,270	1,021	8,166	10,457	13,368	(2,911)
Kwale	415	388	298	3,178	3,864	5,035	(1,171)
Laikipia	278	255	246	2,186	2,687	2,864	(177)
Lamu	114	99	76	829	1,004	1,095	(91)
Machakos	845	785	697	6,672	8,154	8,346	(192)
Makueni	886	800	692	6,641	8,133	8,676	(543)
Mandera	295	237	57	900	1,194	2,793	(1,599)
Marsabit	180	195	104	1,087	1,386	1,760	(374)
Meru	762	666	666	7,266	8,598	8,756	(158)
Migori	642	581	505	5,381	6,467	7,604	(1,137)
Mombasa	96	80	122	1,329	1,531	1,702	(171)
Muranga	512	443	436	4,700	5,579	5,577	2
Nairobi	205	185	273	3,496	3,954	4,493	(539)
Nakuru	741	653	623	7,875	9,151	10,025	(874)
Nandi	774	697	615	4,943	6,255	7,554	(1,299)
Narok	711	704	482	4,700	5,886	8,840	(2,954)
Nyamira	401	332	315	3,386	4,033	4,312	(279)

COUNTY	SCHOOLS	HEAD TEACHER	DEPUTY HEAD TEACHER	TEACHERS	TOTAL	ESTAB-LISH-MENT	VARIANCE
Nyandarua	347	318	266	3,197	3,781	3,943	(162)
Nyeri	389	329	331	3,126	3,786	4,057	(271)
Samburu	184	177	109	1,053	1,339	2,427	(1,088)
Siaya	647	584	527	5,008	6,119	7,526	(1,407)
Taita-Taveta	218	180	154	1,679	2,013	2,177	(164)
Tana-River	178	163	98	1,121	1,382	1,957	(575)
Tharaka-Nithi	431	388	384	3,197	3,969	4,003	(34)
Trans-Nzoia	376	335	328	4,142	4,805	5,662	(857)
Turkana	399	447	132	1,482	2,061	3,745	(1,684)
Uasin-Gishu	492	453	450	4,377	5,280	5,457	(177)
Vihiga	381	336	282	3,439	4,057	4,821	(764)
Wajir	296	242	64	1,034	1,340	2,389	(1,049)
West-Pokot	654	670	332	2,694	3,696	5,825	(2,129)
Grand Total	**23,274**	**21,356**	**18,011**	**183,929**	**223,296**	**267,792**	**44,496**

Source: TSC 2023

Appendix 4.6: Current Teacher Establishment in Public Secondary Schools, 2023 by County

County	Schools	Principal	Deputy Principal	Teachers	Total	CBE	Shortage
Baringo	180	150	161	1,942	2,253	3,004	751
Bomet	280	225	153	2,407	2,785	5,153	2,368
Bungoma	370	321	351	4,364	5,036	8,565	3,529
Busia	165	151	146	2,001	2,298	3,880	1,582
Elgeyo Marakwet	137	120	128	1,753	2,001	2,617	616
Embu	195	169	174	2,290	2,633	3,269	636
Garissa	39	22	13	529	564	822	258
Homa Bay	333	276	232	3,194	3,702	6,272	2,570
Isiolo	32	17	16	363	396	483	87
Kajiado	96	78	95	1,274	1,447	2,066	619
Kakamega	421	368	405	4,943	5,716	9,999	4,283
Kericho	247	211	212	2,637	3,060	4,958	1,898
Kiambu	290	266	262	5,533	6,061	7,230	1,169
Kilifi	161	126	95	1,988	2,209	4,140	1,931
Kirinyaga	150	139	143	2,034	2,316	3,006	690
Kisii	355	331	361	4,565	5,257	7,073	1,816
Kisumu	228	182	245	3,060	3,487	4,998	1,511
Kitui	452	384	323	3,684	4,391	6,438	2,047
Kwale	102	84	60	1,162	1,306	2,370	1,064
Laikipia	124	112	120	1,558	1,790	2,257	467
Lamu	28	19	11	363	393	520	127
Machakos	369	326	324	3,874	4,524	6,658	2,134
Makueni	392	359	370	3,874	4,603	6,499	1,896
Mandera	58	32	5	547	584	1,025	441
Marsabit	45	26	10	511	547	615	68
Meru	392	341	345	4,375	5,061	6,326	1,265
Migori	283	233	229	2,691	3,153	5,340	2,187
Mombasa	52	44	36	944	1,024	1,554	530
Muranga	324	289	315	4,831	5,435	6,540	1,105
Nairobi	102	90	111	2,650	2,851	3,792	941
Nakuru	373	317	347	4,496	5,160	8,035	2,875
Nandi	245	203	159	2,484	2,846	4,750	1,904
Narok	170	127	70	1,579	1,776	3,124	1,348
Nyamira	193	163	177	2,256	2,596	3,554	958

Nyandarua	178	151	162	2,151	2,464	3,464	1,000
Nyeri	221	194	212	3,030	3,436	4,274	838
Samburu	50	31	8	532	571	746	175
Siaya	243	210	216	2,627	3,053	5,109	2,056
Taita Taveta	88	70	67	1,001	1,138	1,717	579
Tana River	35	23	9	398	430	659	229
Tharaka-Nithi	153	129	121	2,116	2,366	2,663	297
Trans Nzoia	240	199	225	2,546	2,970	4,591	1,621
Turkana	60	43	4	643	690	1,133	443
Uasin Gishu	197	164	163	2,551	2,878	3,895	1,017
Vihiga	159	129	161	2,204	2,494	3,782	1,288
Wajir	61	36	3	575	614	1,079	465
West Pokot	178	125	56	1,439	1,620	2,522	902
Total	**9,246**	**7,805**	**7,611**	**108,569**	**123,985**	**182,566**	**58,581**

Appendix 4.7: Staffing Status and Projection for ECDE (Baseline Data, 2022) by Region

NO.	REGION	Public Pre-Primary Schools	Male Teachers	Female Teachers	Total	Private Pre-Primary Schools	Male Teaches	Female Teachers	Total
1	North Eastern	1524	744	1004	1748	373	225	397	622
2	Coast	2264	620	2797	3417	1896	443	3189	3632
3	Eastern	6299	789	7397	8186	1939	358	2333	2691
4	Central	2304	61	3962	4023	1705	737	2506	3243
5	Rift Valley	10654	1389	12200	13589	2929	343	5573	5916
6	Nyanza	2955	339	4339	4678	1782	2149	1617	3766
7	Nairobi	223	68	963	1031	2020		1076	1076
8	Western	2592	1097	4753	5850	1479	148	2471	2619
Total		**28815**	**5107**	**37415**	**42522**	**14123**	**4403**	**19162**	**23565**

Appendix 4.8: Staffing Status and Projection for Secondary Schools (8-4-4) by County

County	School	Principal	Deputy Principal	Teachers	Total	CBE	Shortage
Baringo	180	150	161	1,942	2,253	3,004	751
Bomet	280	225	153	2,407	2,785	5,153	2,368
Bungoma	370	321	351	4,364	5,036	8,565	3,529
Busia	165	151	146	2,001	2,298	3,880	1,582
Elgeyo Marakwet	137	120	128	1,753	2,001	2,617	616
Embu	195	169	174	2,290	2,633	3,269	636
Garissa	39	22	13	529	564	822	258
Homa Bay	333	276	232	3,194	3,702	6,272	2,570
Isiolo	32	17	16	363	396	483	87
Kajiado	96	78	95	1,274	1,447	2,066	619
Kakamega	421	368	405	4,943	5,716	9,999	4,283
Kericho	247	211	212	2,637	3,060	4,958	1,898
Kiambu	290	266	262	5,533	6,061	7,230	1,169
Kilifi	161	126	95	1,988	2,209	4,140	1,931
Kirinyaga	150	139	143	2,034	2,316	3,006	690
Kisii	355	331	361	4,565	5,257	7,073	1,816
Kisumu	228	182	245	3,060	3,487	4,998	1,511
Kitui	452	384	323	3,684	4,391	6,438	2,047
Kwale	102	84	60	1,162	1,306	2,370	1,064
Laikipia	124	112	120	1,558	1,790	2,257	467
Lamu	28	19	11	363	393	520	127
Machakos	369	326	324	3,874	4,524	6,658	2,134
Makueni	392	359	370	3,874	4,603	6,499	1,896
Mandera	58	32	5	547	584	1,025	441
Marsabit	45	26	10	511	547	615	68
Meru	392	341	345	4,375	5,061	6,326	1,265
Migori	283	233	229	2,691	3,153	5,340	2,187
Mombasa	52	44	36	944	1,024	1,554	530
Muranga	324	289	315	4,831	5,435	6,540	1,105
Nairobi	102	90	111	2,650	2,851	3,792	941
Nakuru	373	317	347	4,496	5,160	8,035	2,875
Nandi	245	203	159	2,484	2,846	4,750	1,904
Narok	170	127	70	1,579	1,776	3,124	1,348
Nyamira	193	163	177	2,256	2,596	3,554	958

County	School	Principal	Deputy Principal	Teachers	Total	CBE	Shortage
Nyandarua	178	151	162	2,151	2,464	3,464	1,000
Nyeri	221	194	212	3,030	3,436	4,274	838
Samburu	50	31	8	532	571	746	175
Siaya	243	210	216	2,627	3,053	5,109	2,056
Taita Taveta	88	70	67	1,001	1,138	1,717	579
Tana River	35	23	9	398	430	659	229
Tharaka-Nithi	153	129	121	2,116	2,366	2,663	297
Trans Nzoia	240	199	225	2,546	2,970	4,591	1,621
Turkana	60	43	4	643	690	1,133	443
Uasin Gishu	197	164	163	2,551	2,878	3,895	1,017
Vihiga	159	129	161	2,204	2,494	3,782	1,288
Wajir	61	36	3	575	614	1,079	465
West Pokot	178	125	56	1,439	1,620	2,522	902
Total	**9,246**	**7,805**	**7,611**	**108,569**	**123,985**	**182,566**	**58,581**

Appendix 4.9: Common Practices in Appointing Institutional Administrators

Country	Criteria	Appointing authority
Turkey	Degree Education; At least 3 years as a teacher; No disciplinary issues; Not having had judicial or administrative investigation; Pass the selection exam (on ethics, leadership, human relations) and; Must have served as Deputy Principal	Ministry of Education, Councils and Municipalities.
Germany	Decentralised, conducted at State level but subject to the law; Considered as Civil Servants; Must be a teacher and must attend classes as the duties permit and; Pre-service management course Higher Education Qualifications.	Ministry of Education, Parent/Teacher Associations may be involved.
Britain	National Professional Qualifications for Schools (Pre-service Management Course); Higher Education qualifications; and Experience 20 years, of which 15 years is in the classroom and five (5) years as Deputy Principal.	The UK Department of Education.
Finland	Holder of Master's Degree and above; Pre-service School Management Diploma; Must have served as Deputy Principal; Decentralised.	Regulated by Local Government.
South Africa	Centralised; and Pre-service Advanced Certificate in Education (ACE) mandatory.	The School Governing Body (SGB).
Kenya	Centralised; and Pre-service management training is not mandatory.	Teacher Service Commission (TSC).

Source: Irfan Ayhan Review (2020)

Appendix 7.1: Specific Proposals for Legislative Amendments in Basic Education

1. Early Childhood Education Act No. 3 of 2021

Issues	Analysis	Recommendations
Duplication of roles in the management of public ECDs and Primary Schools domiciled in the same compound	1. Section 55 (1) (a) of the Basic Education Act provides for the establishment of BoM in education Institutions by National Government, while the County government is required under Section 29 (1) of the Early Childhood Education Act to establish BoM for every early childhood education center. Where these two institutions are domiciled in the same compound, it means that there are two sets of BoMs in the same compound but reporting to two separate governments.	1. Repeal the ECE Act 2. Embed ECE management in the Basic Education (BE) Act. 3. The role of the county government as set out in Section 6 of the ECE Act be provided for in the Basic Education Act. 4. Amend the Basic Education Act to provide for governance and management of public ECE centres not domiciled in public Primary schools.
	5. Further, the ECD Act creates the office of head teacher in an early childhood education center. Where such a centre is linked to a public Primary school it means there are two head teachers in one compound which may create conflict.	6. There be only one BoM and headteacher to manage schools sharing the same compound.
Quality Assurance in Pre-Primary education	Part VII of the Early Childhood Education Act makes provision for Quality Assurance and Standards. Section 63 establishes the Early Childhood Assurance Committee. However, education standards fall under the national government as set out in the fourth schedule of the constitution. Also, matters of curriculum development, training of Pre-Primary school teachers and management of examinations are the function of the national government which contributes in the management of quality assurance and education standards.	1. Provide in the Basic Education Act that the national government shall set standards for all basic education institutions including ECE centres. 2. The national government and the county governments shall ensure adherence to the set standards.
Resource sharing	There is no synergy between Pre-Primary, Primary schools and JS sharing the same compound on the management and sharing of resources which leads to compromised education standards especially in Pre-Primary schools.	Intergovernmental relations mechanism on sharing of resources between the two levels of government be embedded in law to ensure collaboration between ECE centres, Primary schools and JS sharing the same compound.

ECE Teacher Management	1. There is no standard framework on ECE teacher management. 2. ECE teachers' remuneration is fragmented between the various county governments despite the COG scheme of service. 3. In the case of KNUT v. The Attorney General & 4 others (2016), clarified that the County Governments have the power to recruit ECE teachers but must do so only from the register of trained registered teachers held by the TSC within its constitutional mandate. County governments have the specific mandate in all aspect of Pre-Primary education save registration of teachers which is a function solely reposted in TSC.	MoE, COG and TSC should develop an intergovernmental agreement for purposes of hiring and remuneration of ECE teachers. The intergovernmental agreement should provide for a hiring process led by the county governments and once hired the ECE teachers get paid directly by TSC. Parliament should allocate, out of the share of county government resources for paying ECE teachers. TSC to do this as a Constitution Commission serving both levels of governments.
Use of the word "Early Childhood Education" and "Pre-Primary Education" interchangeably	The Constitution makes use of the term "Pre-Primary education" and "childcare facilities" in reference to the responsibilities of the county government to education as opposed to the widely used term of "early childhood development and education" in the Early Childhood Education Act, in some areas in the Basic Education Act and in the education policies.	Amend the law and policies to align them to the constitutional term of Pre-Primary education.

2. Basic Education Act No. 14 of 2013

Issues	Analysis	Recommendations
Bloated BOMs	The Basic Education Act provides for composition of BoMs at 14 Members. The BoMs may co-opt members not exceeding three at any particular time and such members do not have a right to vote at the meetings of the Board. This means that there is a total of 17 members of the board at any one meeting. This number is large and unsustainable and there is need to reduce it.	Amend Section 56 of the Basic Education Act to provide for the composition of BoMs as follows: 1. For Secondary schools there shall be 10 members as follows: 2. The chairperson of the PTA; 3. Three representatives of the sponsor(s) of the school, where applicable; (This does not apply to MoE schools) 4. One person living with disability; 5. Two persons with relevant professional qualifications;
	The stakeholders reported that the BoMs of basic education institutions are bloated and needed to be restructured. The verbatim submission is captured below:	Three ex-officio members; One nominee of the NGAO; The SCDE or their nominee who shall be an employee of MoE); and The head of the institution who shall be the Secretary and an ex-officio member.

	"The BoMs and PAs in basic education institutions are too large and expensive to maintain. This is causing problems in schools." RESP133 The stakeholders also pointed out that there is no representation of the National government Administration Office (NGAO) in the BoMs. They noted that the presence of NGAO in the BoM was important to advise on security matters.	In case of a comprehensive school where ECE, Primary school and JS are in one compound there shall be 13 members as follows: 1. Three persons from among the parents in the school, one of whom shall be the chairperson of the PTA; 2. Three representatives of the sponsor(s) of the school, where applicable; (This does not apply to MoE schools); 3. One person living with disability; 4. Two persons with relevant professional qualifications; 5. Four ex-officio members; 6. One nominee of NGAO; 7. The SCDE or their nominee who shall be an employee of MoE); and 8. Ward administrator or their nominee who shall be an employee of the County. 9. The head of the institution who shall be the Secretary. Delete Section 56 (3) to remove the option of co-option and delete Section 62 which provides for the secretary of the board. N/B: In the first inaugural meeting the members shall elect their chair. Transitional clause be provided for effective dates of the BoMs, to take care of the current office holders.
Parents Teachers	Section 2 of the Basic Education Act provides for the definition of "Parent's Association". On the other hand, Section 55 (2) & (3) of the Basic Education Act provides that every school shall have a "Parents Association" and every private school shall establish a "Parents Teachers Association". Section 20 (1) (h) of the Basic Education Act on the composition of the CEB provides for two representatives of the "Parents Teachers Association".	1. Restructure the Law to ensure the association is for all Parents and Teachers by amending the Act to provide for "Parents Teachers Association" in every school (public & private) and the term "Parents Teachers Association" be used throughout the Act for consistency. The establishment of the parents' teachers' association should only be at the school level. 2. Amend the Basic Education Act to provide for the establishment and functions of the Parents Teachers Association in the main Sections of the law.

		3. Delete paragraph 2 (6) (e) in the third schedule which provides that the association shall levy charges on pupils or parents as the provision contravenes Article 53(1)(b) of the Constitution on free and compulsory basic education.
Association	Further the third schedule of the Basic Education Act provides for the establishment and functions of the "Parents Association". From the foregoing, there is the use of the terms "Parents Association" and "Parents Teachers Association" interchangeably throughout the Act creating confusion. More importantly parental involvement and engagement as a key component of CBC. It is therefore prudent that the establishment and functions of the association is provided for in the main Sections of the law as recognition of the important role played by the association in basic education. The current placement on the establishment and functions of the association in the third schedule of the Act gives the notion that it is an afterthought.	
National Education Board (NEB)	Section 5 (1) of the Basic Education Act provides for the establishment of the NEB. However, the board is moribund and duplicates the role of the cabinet secretary and staff at MoE.	1. Delete the whole of part II, the first schedule and part II of the fourth schedule of the Basic Education Act which makes provisions for establishment, powers, functions and composition of NEB. 2. Delete NEB wherever it is mentioned in the Act.
County Education Board (CEB)	ection 18 (a) and (b) of the Basic Education Act gives the CEB the function to oversee, in consultation with the county government, the operation and management of youth polytechnics, Pre-Primary education, including early childhood care and education programmes in the county	1. Amend Section 20 (1) (a) of the Basic Education Act to delete an educationist of at least five years standing based in the County as the chair of CEB and replace with the County Commissioner who shall be the chair. 2. Amend Section 22 on tenure of office of the persons appointed in CEB to provide as follows: -

	Sand coordinate and monitor education and training in the county on behalf of the national government and the county government.	• (For Public Office Holders) The persons appointed shall serve for the period of their tenure of office in the relevant County, unless removed from office or transferred to another County, by the appointing authority; and
	This provision conflicts with Section 9, part 2 of the fourth schedule of the Constitution that mandates county governments to manage Pre-Primary education, village Polytechnics, Home Craft Centres and childcare facilities within their jurisdictions.	• (For Private Persons) The persons appointed shall serve for a period of three years and may be renewed for a further one term subject to satisfactory performance.
	Further, a look at the composition of CEB in Section 20 of the Act shows there is no representation of NGAO. However, NGAO plays a critical role in ensuring matters such as infrastructure, security in schools, drug peddling and intake by learners are dealt with in the County.	
	The tenure of office of the persons appointed to CEB as provided for in Section 22 of the Act should be revised for clarity.	
Education Standards and Quality Assurance Council (ESQAC)	Section 64 (1) of the Basic Education Act establishes the ESQAC to ensure standards and maintain quality in basic education institutions. Currently, the functions of this body are being performed by the Directorate of Quality Assurance in the State Department of Basic Education.	Amend Section 64 (1) of the Basic Education Act to delete ESQAC and create the Directorate of Quality Assurance & Standards (DQAS). The functions of the Directorate are to be spelt out in the Act, and an enforcement mechanism provided to give QASO the powers to, *inter alia*, close schools.
	In Section 66 (2) of the Act, the powers of the Quality Assurance and Standards Officer (QASO) are limited to recommending the suspension of operations of an institution to CEB for a specified period until the basic standards are met. Section 66 (3) also provides for recommendations to be made to TSC and the CEB for necessary action. From the provisions, it is noted that a proper enforcement mechanism of the recommendations QASO is lacking.	

National Council for Nomadic Education in Kenya (NACONEK)	The body defined under Section 2 is National Council for Marginalised and Nomadic Education, but the body established under Section 94 of the Basic Education Act is the National Council for Nomadic Education. Therefore, Section 2 defines the National Council for Marginalised and Nomadic Education as the body established under Section 92. However, Section 92 of the Act provides for "general penalties for offences committed under the Act. This inconsistency causes difficulty in interpretation and enforcement of the Act.	Recast the name of the body to National Council for Marginalised Communities in Education (NACOMACE) and expand the mandate to include the school feeding programme.
	The body is a semi-autonomous government agency in the Ministry of Education mandated to initiate the development, implementation and review of policies on all matters relating to education in the ASAL areas, pockets of poverty regions and informal urban settlements of Kenya. The body also carries out the school feeding programme to maintain children in school, but the same is not spelt in its functions.	
Special Board of Adult and Continuing Education	The fifth schedule of the Act provides for the establishment of the Special Board of Adult and Continuing Education, whose functions include, inter alia, advising the Cabinet Secretary on any matter relating to adults and education, including the formulation of courses and syllabuses, the establishment of residential and non-residential institutions. It is, however noted that the Board has never been put in place, and a directorate in the State Department of Basic Education is currently handling adult and continuing education.	Delete the fifth schedule and transfer the functions to the directorate of adult and continuing education at MoE.
Education Appeals Tribunal	The Education Appeals Tribunal (EAT) is established under Section 93 (1) of the Act and to hear appeals from the decisions of the CEB.	1. The Education Appeals Tribunal be reformed to hear all administrative issues in the education sector. This shall include appeals from the decision of TSC Review Panel, appeals on examination from KNEC decision,

	As the name implies, the tribunal should hear all administrative issues in the education sector including appeals from the decision of TSC review panel, appeals on examination from KNEC decision, appeals on decision of the Council of Universities and appeals from decision of TVET Board of Governors/Council.	appeals on decision of the Council of Universities and appeals from the decision of TVET Board of Governors/ Council. A new law shall be developed in this regard, i.e. the Education Appeal Tribunal Bill *(Attachment 3: Outline of the proposed Bill)* 2. In the new law, it is proposed that the composition of the tribunal be as follows: (a) Chairperson of the Tribunal to be appointed by the Judicial Service Commission. (b) Representative of Kenya Private Sector Alliance (c) Representative of COG (d) Representative of Faith Based Organizations. (e) Five persons, with background in Law, Education and Finance, one of whom shall be a person with disability, competitively recruited. 3. The composition of the tribunal shall adhere to the principle of 2/3 gender rule. 4. Regulations on the proceedings of the Tribunal, award of the Tribunal, quorum of the tribunal, appeal of the tribunal and remuneration shall be developed. 5. There shall be a secretary of the tribunal who shall have a legal background. 6. The tribunal may establish ad-hoc sub-committees.
Offices in the State Department for Basic Education	The Director General's (DG's) office has been established under Section 54 (3) of the Act, but its functions have not been spelt out. Within the State Department for Basic Education, the DG is the technical head. Currently, the DG is deputised by eleven (11) directors at the head office who are in charge of the following directorates: Secondary Education, Primary Education,	Restructure the State Department for Basic Education directorates to align them to the competency-Based Curriculum to ensure its proper implementation and for effective and efficient delivery of basic education services. For example, there will be a need to rethink the existence of the Directorate of Early Childhood Education in light of the Constitutional mandate of counties over the Pre-Primary education. Amend Section 54 (3) of the Basic Education Act by inserting a new Sub-Section to provide for the functions of the DG and include quality assurance and standards, and adult and continuing education as part of its functions and by inserting a new Section to provide for the office of the RDE, its functions and reporting structure.

	Early Childhood and Development Education, Quality Assurance and Standards, Special Needs Education, Teacher Education, Field Coordination and Co-Curricular Activities, Policy Partnerships and East Africa Affairs, Project Coordination and Delivery, School Audit Services and Adult and Continuing Education. The structure does not align with the Competency-Based Curriculum. The current link between the headquarters and the field offices is weak, decentralization has not been provided to the zonal level and there is duplication of offices such as that of the County Director of Education and County Director of Adult and Continuing Education yet they all belong to the State Department for Basic Education.	Amend Section 54 (7) of the Basic Education Act to include quality assurance and standards and adult and continuing education as functions of CDE and provide the reporting structure. Amend the Basic Education Act by inserting a new Section to provide for the office of the SCDE, its functions and reporting structure. Provide in the Basic Education Regulations that the State Department for Basic Education shall have offices all the way to the zonal level.
Field Relations between MoE and TSC	Both TSC and MoE have filed offices to ensure the delivery of their services. While the MoE has a Regional Director of Education, County Directors of Education and Sub-County Directors of Education, TSC has similar officers at the County, Sub-County and zonal levels.	The management and running of schools is the responsibility of the national Government through MoE. TSC has no role in the school. TSC's role is to the teacher as a professional and employee. Therefore, if TSC needs a teacher (its employee) from the school, they should do so by seeking the permission from MoE. TSC may decentralise its services, but the same should be in regard to the human resource function only.
	The existence of the two offices at these levels has created two centres of command which have sometimes led to conflict, thus hampering the effective management and execution of the basic education policies and programmes at the school level. For example, the PWPER was informed of cases where teachers are called to meetings by MoE then the same teachers are directed not to attend the meeting by TSC. According to the stakeholders' views, there is poor coordination of education programmes at the Regional,	

	County and Sub-County levels due to duplication of MoE and TSC structures and functions.	
	The following are verbatim excerpts:	
	Overlapping roles have created a competition which is currently affecting the management of basic education, more so in the field of education; we will wish to streamline and harmonise the role of the actors in education to ensure accountability and implementation of education programmes and assessment education outcomes.	
	(RESP126)	
	They are two worlds apart. I get policies left and right, files from the Ministry of Education, and files from TSC, and they are colliding. As a target person, I have to comply with the policies from both sides and at that time, they are clashing. I ask myself, what should I do? (RESP129)	
	Both TSC and MoE appoint Education Managers right from Sub County to Regional levels resulting in work overlaps and general confusion to the public. The duties being undertaken by, for instance, MoE and TSC can be handled by one officer. (RESP132)	
System and Structure of Education in Kenya	Section 41 of the Basic Education Act provides for the following system and structure of education in Kenya: Pre-Primary Education; Primary Education; Secondary Education; Middle-level institutions of basic education This does not conform to the education system under the CBC structure of 2-6-3-3.	Amend Section 41 of the Basic Education Act to provide for the system and structure of education in Kenya as follows: • Pre-Primary Education; • Primary Education; • Junior School; and • Senior School.

Teacher Education and Training	Currently, in-service teacher training is implemented by different players, namely CEMASTEA and KEMI, but there is no evidence of a consultative development framework for its implementation by the different players. Pre-service teacher training is offered by Teacher Training Colleges (TTCs). Currently, the governance of TTCs of each college is managed by a board of management, the student admission process is done through MoE, financing of the colleges is under MoE, and the tutors are deployed through TSC. However, there is no collaborative framework to inform and monitor these processes. In addition, the operations of TTCs without a clear legal framework and their management as single distinct entities have led to a lack of uniformity in standards.	Pre-service and in-service teacher training be provided for under a distinct legal framework i.e. Teacher Education and Training Bill (Attachment 2: Outline of the proposed Bill). In this legislation, all TTCS shall be brought under a single entity called Kenya Teachers Training College (KTTC). The college shall be a body corporate and it shall be headed by a board which shall have both strategic and stewardship role. The TTCs in the counties shall be campuses of the college, headed by a director. The law shall also provide for in-service training of teachers which shall be administered under a one entity called the Kenya School of Teacher Education & Management (KeSTEM) which shall coordinate the in-service training of basic education teachers in employment. The school shall encompass KEMI, CEMASTEA and the three TTCs offering diploma in teacher education i.e. Kagumo TTC, Kibabii TTC and Lugari TTC.
Categorization of Schools	Section 43 (1) of the Basic Education Act categorises schools as public schools and private schools only. Regulation 79 of the Basic Education Regulation 2015 further classifies basic education institutions into: Gender of learners admitted; National, extra-County, County or Sub-County; boarding or day school; low-cost boarding school (in the case of Primary School); and Special Needs Education institutions. The stakeholders raised concern about the current categorisation of schools which they deemed to be discriminatory in terms of distribution of resources and resulted in over-enrollment in certain schools and under-enrollment in others.	Amend Regulation 79 (b) of the Basic Education Regulation 2015 to delete the classification of institutions as national, extra-county, county or sub-county and replace the provision with the following classification: • Day; • Boarding; • Mixed (day/boarding); • Mixed (boys/girls); and • According to pathways at Senior Secondary.

Conversion of a Basic Education Institution	Section 43 (2) of the Act makes provision for a case where a public basic education institution may be converted to a private basic education institution, which should be done in consultation with the NEB and approval by the Cabinet Secretary. Such conversion from public to private status should be done away with, given the affordability of public schools in the promotion of free and compulsory basic education. Thus, the provision should only allow for a case where a school may be converted from private to public status and clarify that no public school shall be converted to private status.	Delete Section 43 (2) of the Basic Education Act.
National Education Management Information System (NEMIS)	The Act refers to Education Management Information System (EMIS) and not NEMIS as it is currently known. It is noted that those above 18 years are not admissible in the system, and there have been instances of falsification of information.	1. Amend the phrase "NEMIS" and replace with "KEMIS" to reflect the Country Kenya. 2. Delete the word "EMIS" as currently used in the Act and substitute with the word "KEMIS". 3. Provide that KEMIS capture all learners in basic education institutions and where a learner is not registrable due to reasons which may include; lack of national identity card or are above 18 years, the CDE shall handle each case on its merit and where the reasons given are merited register the learner on KEMIS. 4. General penalties for falsification of data to be provided for in the regulations.
Sponsor	Section 2 of the Act defines a "sponsor" as a person or institution who makes a significant contribution and impact on the academic, financial, infrastructural and spiritual development of an institution of basic education. It is noted that this definition implies that one qualifies as a sponsor if they make significant contribution in all the areas mentioned thus leaving out the sponsors whose contribution may be in one area e.g. financial.	1. Amend Section 2 of the Basic Education act to provide for the definition of a "sponsor" as follows: A person or institution who make a significant contribution and impact on the academic or financial or infrastructural or spiritual development of an institution of basic education. 2. MoE should provide a framework for relationship between the national government and other entities to address cases such as: a sponsor owns land but GoK owns infrastructure or schools under charitable institutions.

	The stakeholders observed that the role of sponsor is not clearly defined in the Basic Education Act.	
Chaplaincy Services/ Imams	The Act does not make any provision in this regard. It is noted that chaplaincy/imam services are important in schools in the promotion of value-based learning.	1. MoE to come up with a framework for chaplains/imams' services in schools. 2. TSC shall employ and deploy teachers as chaplains/imams in schools and the chaplains/imams can be shared between schools.
Respect of Religious Rights	The Constitution and the Basic Education Act acknowledges Kenyans ethnic, cultural and religious diversity and the right of every Kenyan to freedom of conscience, religion, belief and opinion. It is however noted that the violation of religious rights in schools has compounded effects on maintenance of peace and tranquility. In some cases, learners who are denied such rights vent their frustrations through violent acts like burning of dormitories while others end up dropping out of school.	1. A provision on facilitation of religious rights of learners in schools including the sponsored schools should be included in the Basic Education Act. 2. The Cabinet Secretary, MoE to engage with all religious groups in the Country in a consultative forum, with a view of coming up with guidelines aimed at facilitating the religious rights of all learners in basic education institutions in order not to discriminate against any learner in the basic education institution as a result of their faith or belief.
Bursaries and Scholarships	Currently the issuance of scholarships and bursaries in basic education is fragmented as the same is been done by different entities resulting in inequities and little is done to support the neediest learner. There is no single legal framework to govern the issuance of scholarships and bursaries in basic education.	1. Develop legislation on bursaries and scholarship i.e. Management of Scholarship and Bursaries in Basic Education Bill (Attachment 3: Outline of the proposed Bill). The new law shall include: centralize management of bursaries and scholarship in one body called Kenya Basic Education Bursaries and Scholarships Council; central data base that captures all bursaries and scholarships; outlaw provision of bursaries and scholarships from two sources; outlaw demand of refund of money paid as bursaries and scholarships; needy students to be identified through the schools, wards, sub-county and county; and involve religious leaders, school heads and elected leaders. 2. The council to be established as a semi-autonomous government agency within the State Department for Basic Education and it shall be responsible for:

			• Administering the bursaries and scholarships; • Providing the criteria for bursaries and scholarship; • Processing the identification of needs; • Keeping a data base of all needy students; • Mobilizing resources from private sector to complement government allocation; • Collaborating with other agencies that provide bursaries and scholarships; • Publishing the list of awardees to avoid double allocations; • Reporting annually to the national and county governments. The composition of the Council to include relevant government players namely: State Department for Basic Education; KICD; KNEC; KLB; National Treasury; NGCDF; and other private sector players such as the Kenya Bankers Association (KBA) and religious groups. The Council will be the successor of Jomo Kenyatta Foundation (JKF) and a transitional arrangement be provided for in the Act.
Directorate of School Audit	Section 90 (1) of the Act provides that the Cabinet Secretary shall establish mechanisms for school-based auditing. At Sub-Section (2) the officers responsible for school-based auditing for public schools shall advise and work with the respective headteachers, principals, school administrators and governing bodies to ensure the proper maintenance of accounts and assets of the institution. The Basic Education Act has attempted to incorporate special needs in education in Kenya as seen in Part VI of the Act. However, there is currently a proposal to expand the provision of the law through the Special Needs Education (SNE)	Restructure school audit function at the MoE into an internal audit and risks unit at the school level. Cabinet Secretary to develop regulations in this regard as provided for under Section 90 (3) of the Basic Education Act. 1. Where applicable, the provisions of the SNE Bill, 2021 should be incorporated in the Basic Education Act. 2. The part VI on Special Needs Education in the Basic Education Act be amended to: • Provide for the establishment of KISE to train SNE teachers;	

	Bill to provide for the education of learners with special needs and the conduct of educational institutions.	• Expand the mandate of KISE to include management of EARCs and provision of specialized learning resources, assistive devices and adapted technologies.
	For consistency in implementation and to avoid having several legislation addressing the same issue, the proposals in the SNE Bill 2021 should be incorporated in the Basic Education Act.	• The Kenya Institute for the Blind to be established as a branch of KISE.
	Section 46 (1) of the Act provides that it shall be the duty of every CEB in consultation with the relevant county government to provide for Education Assessment and Research Centres (EARCs) including a special needs service in identifying clinics in the county.	
Special Needs Education	It is however noted that these centres are not well managed and are marred with financial constraints. More should be done to recruit EARCs officers in every county and sub-county.	MoE to provide for a framework for collaboration between KISE, CEB and county governments in operations of EARCs.
	KISE facilitates service provision for persons with special needs and disabilities through human capital development, research, functional assessment, rehabilitation, Inclusive education practices, technology and production of learning and assistive materials.	Amend the Act to replace the word research on EARCs with resource.
	The mandate of KISE could be expanded to oversee management of SNE and bring EARCs under it for coordinated and better management. From the stakeholders' views, it was proposed that KISE be established as a special needs and disabilities authority through an act of parliament with mandate to, inter alia: advise the government on matters related to Special Needs Education and disability; implement and enforce government policies on special needs and disabilities; manage functional assessment services in the country:	

	manage EARC centres and staff; collate disability data from all EARC centres in the country; develop and standardize tools used for functional assessment; and design and produce specialized learning resources, assistive devices and technologies.	
	In addition, there exists the Kenya Institute for the Blind (KIB) which was registered as a National Braille Resource Centre for the Blind Persons by the Ministry of Education in February 2004. The institute runs a national braille library, the only one of its kind in the country which offers services to Primary, Secondary, tertiary institutions and the general public braille readers.	
	It also trains blind persons in Braille reading and writing skills. With the proposed expanded mandate of KISE, KIB should be brought under KISE, where it can operate as a branch of KISE.	
	With regards to EARCs, the Basic Education Act at Section 46 (1) refers to centres as education assessment and research centres. The name should be amended to replace the word research with resource.	
School Equipment Production Unit	SEPU is a government agency under the Ministry of Education with a sole mandate of designing, manufacturing, supplying, and distributing science materials and apparatus to educational institutions in Kenya. The agency is incorporated under the Companies Act (No. 17 of 2015) as a company limited by guarantee and having no share capital. However, the body is faced with inadequate revenue allocation and lack of modern machine in the production unit thus hampering the provision of efficient and quality services.	Rename SEPU to School Learning and Instruction Materials Centre (SLIMC). Provide for its establishment in the Basic Education Act and expand its mandate to include the administration and procurement of learning and instruction materials. The council shall be a semi-autonomous government agency within the State Department of Basic Education and the membership of the Council to include: State Department for Basic Education; KICD; KNEC; Kenya Teachers Training College; National Treasury; and Private Schools Association.

	There is therefore a need to restructure the body by changing the name and expanding its mandate to include the administration and procurement of learning and instruction materials.	
Use of titles for the leadership in MoE and the SAGAs	It was noted that the Education sector has different titles for the leadership in the various entities thus causing confusion. For example, the title Director General and Chief Executive Office is been used interchangeably throughout the sector. There is need for coherence in the use of the titles for the leadership in the various entities.	MoE to develop a policy on the naming of Heads of Directorates in the Ministry and the Heads of Parastatals.
Errors in the Basic Education Act.		1. Delete paragraph (d) of Section 40 (2) of the Basic Education Act as the same is a repetition of paragraph (b) of Section 40 (2). 2. Re-number Sub-Section (4) of Section 40 of the Basic Education Act as Sub-Section (3)
Inconsistencies in the Basic Education Act	The cross-reference Section ''52'' appearing in the definition of the phrase ''County Director of Education'' is incorrect. The correct Section is ''54 (5)''.	The cross-reference Section ''52'' appearing in the definition of the phrase ''County Director of Education'' be replaced with Section ''54 (5)''.
Definition of Terms in the Basic Education Act	The interpretation of some of the terms provided for in the Act are unclear and require to be reworded for better understanding. Also, there is need to include interpretation of other relevant terms for better implementation of the law.	1. Delete the word ''accreditation'' appearing between the words ''the'' and ''agency'' in the definition of the term ''accreditation'', and substituting with the word ''relevant''. 2. Delete the word ''a'' appearing between the word ''of'' and ''documentation'' in the definition of the term ''accreditation''. 3. Delete the definition of the phrase ''adult basic education'' and substitute with the definition ''adult basic education'' means basic education offered to a youth or adult who is out of school. 4. Delete the definition of the phrase ''basic education'' and substitute with the definition ''basic education'' means a program offered at pre-school, Primary, Secondary and includes a program offered at adult and continuing education centres.

		5. Delete the definition of the term ''manager'' and substitute with the definition ''manager'' means a person who has been appointed by the Cabinet Secretary to oversee the management of education resources and implementation of policies and guidelines in basic education institutions.
		6. Delete the definition of the phrase ''Primary education'' and substitute with the definition ''Primary education'' to mean education imparted to a child after Pre-Primary education but before Secondary education.
		7. Include the definition of the phrase "Junior Secondary School" to mean education in Grades 7, 8 and 9.
		8. Include the definition of the phrase "Senior Secondary School" to mean education in Grades 10,11 and 12.

3. Kenya Institute of Curriculum Development Act No. 4 of 2013

Issues	Analysis	Recommendations
Establishment of the Institute	Section 3 of the KICD Act provides for the establishment of the institute. Section 3 (4) of the Act provides that the headquarters of the institute shall be in Nairobi, but the institute may devolve its functions to the counties progressively.	Amend Section 3 (4) of the KICD Act and replace the phrase "devolve" with "decentralise".
Functions of the Institute	Section 4 of the KICD Act provides for the functions of the institute. Part (c) provides that the institute shall implement the policies relating to curriculum development in basic and tertiary education and training; part (d) (vii) provides that the institute shall develop, review and approve programmes, curricula and curriculum support materials that meet international standards for technical and vocational education and training; part (g) provides that the institute shall print, publish and disseminate information relating to curricula for basic and tertiary education and training; part (h) provides that the institute shall collaborate with other individuals and institutions in organizing and conducting professional development programmes for teachers, teacher trainers, quality assurance and standards officers and other officers involved in education and training on curriculum programmes	1. Amend Section 4 (c) of the KICD Act by deleting the phrase "and tertiary education & training" and replacing with teacher education and training. 2. Amend Section 4 (d) (vii) of the KICD Act by deleting the phrase "technical and vocational education and training" and replacing with teacher education and training. 3. Amend Section 4 (g) of the KICD Act by deleting "and tertiary education and training" and replacing with teacher education and training. 4. Amend Section 4 (h) of the KICD Act to read "collaborate with other agencies to provide support in curriculum development".

	and materials; part (l) provides that the institute shall offer consultancy services in basic and tertiary education and training; and part (n) provides that the institute shall receive, consider, develop and review curriculum proposals.	5. Amend Section 4 (l) of the KICD Act by deleting the phrase "and tertiary education & training" and replacing with teacher education and training. 6. Amend Section 4 (n) of the KICD Act by adding the phrase "in basic education" after the phrase "review curriculum proposals".

Establishment of the KICD Council	Section 5 (2) of the KICD Act provides that the Council shall consist of:
	
	(a) a chairperson who shall be appointed by the Cabinet Secretary;
	(b) the Principal Secretary responsible for education and training;
	(c) the Principal Secretary to the Treasury;
	(d) One person to represent the Kenya National Examinations Council;
	(e) One person to represent the Teachers Service Commission;
	(f) The following members appointed by the Cabinet Secretary:
	  (i) one person to represent public Universities;
	  (ii) one person from the private sector;
	  (iii) one person nominated by the Kenya Primary Schools Head Teachers Association;
	  (iv) one person nominated by Kenya Secondary Schools Head Teachers Association.
	(g) the Director who shall be an ex-officio member.
		Amend Section 5 (2) to provide for the composition of the Council as follows:
		
		(a) A chairperson who shall be appointed by the Cabinet Secretary;
		(b) The Principal Secretary responsible for basic education or his/her representative;
		(c) The Principal Secretary national treasury or his/her representative;
		(d) CEO Kenya National Examinations Council or his/her representative;
		(e) CEO Teachers Service Commission or his/her representative;
		(f) one person to represent public Universities;
		(g) two members, from the private sector, one of whom shall be from the private Universities;
		(h) CEO KISE or his/her representative;
		(i) CEO Kenya Teachers Training College or his/her representative; and
		(j) the CEO of the Institute who shall be an ex-officio member.

Academic Committee	Section 17 of the KICD Act provides for the Academic Committee and Panels and at Section 18 the composition and functions of the Academic Committee is stated. A look at the functions of the Academic Committee reveals a duplicate with the functions of the Council's curriculum technical committee. At Section 4 (d) the Council is mandated to keep under constant review the curricula and curriculum support materials at different levels of education and training and at Section 18 (4) (a) the Academic committee is mandated to keep under constant review the curricula and curriculum support materials at different levels of education and training. This is a duplicated role. Also, some of the members of the committee e.g. the Ministry, KNEC, TSC, public University are already represented in the Council.	Amend Section 17 and 18 of the KICD Act to remove Academic Committee.
Director of the Institute	Section 14 of the KICD Act provides that there shall be a Director of the Institute who shall be appointed by the Council through a competitive, fair and open process. However, it is noted that reference to the head of management of the institute as Director limits career progression for the other officers in the institute. Therefore, for consistency in reference to the head of management of the SAGAs in basic education and to create room for progression, the head of the management should be referred to as Chief Executive Officer (CEO).	Amend Section 14 of the KICD Act to replace the "Director of the Institute" with CEO and the same be used throughout the Act.

4. Kenya National Examination Council Act No. 29 of 2012

Issues	Analysis	Recommendations
Establishment of the Council	Section 3 (1) of the KNEC Act establishes the "Kenya National Examination Council". The current procedure for evaluation being carried out by KNEC is assessment as opposed to examination thus the name of the council should reflect the same.	Amend the title of the KNEC Act and Section 3 (1) of the Act and replace the phrase "Kenya National Examination Council" with "Kenya National Assessment Council" and everywhere in the act where the name of the Council appears as Kenya National Examination Council including the long title.
Composition of Council	Section 4 (1) of the KNEC Act provides for the composition of the council as follows: (i) a Chairperson appointed by the President under Section 5;	

	(ii) the Principal Secretary of the Ministry responsible for matters relating to education or a representative of the Principal Secretary; (iii) the officer in charge of quality assurance and standards in the Ministry responsible for matters relating to education; (iv) the Director of the Kenya Institute of Curriculum Development; (v) the Secretary of the Teachers Service Commission; (vi) the following persons appointed by the Cabinet Secretary – (a) one member to represent the interest of persons with disabilities; (b) one person to represent the post school technical and business training institutions in Kenya, including polytechnics;	
	(c) one person to represent private sector involved with management of Education as the Cabinet Secretary may determine; (d) one person to represent any other special interest as the Cabinet Secretary may determine; and (vii) the Chief Executive Officer.	Amend Section 4 (1) of the KNEC Act on composition of council as follows: - (i) A chairperson appointed by the President; (ii) Principal Secretary Basic Education or his/her representative; (iii) Principal Secretary National Treasury or his/her representative; (iv) CEO KICD or his/her representative; (v) CEO TSC or his/her representative; (vi) Three other persons to represent: • FBOs • Marginalised groups • Private sector (one of who shall be a person living with disability). (vii) The Chief Executive Officer who shall be an ex-officio member.

Functions of the Council	Section 10 (1) (a) of the KNEC Act provides that the Council shall set and maintain examination standards, conduct public academic, technical and other national examinations within Kenya at basic and tertiary levels. This provision extends the mandate of the council to tertiary levels yet there exist the body known as TVET CDACC which does assessment for technical and vocational education and training. Thus, the inclusion of the mandate of the council to tertiary levels creates duplication of roles.	Amend Section 10 (1) (a) of the KNEC Act by deleting the phrase "tertiary" and replacing teacher education and training.
Term of Office of Chairperson and Members	Section 7 of the KNEC Act provides for term of office of the chairperson and members who shall serve for a term of four years, and shall be eligible for re-appointment for one further term. However, Mwongozo which is the Code of Governance for State Corporations guides that the tenure of a board member should not exceed accumulative term of six years or two terms of three years each. Therefore, there should be conformity with the policy in this regard.	Amend Section 7 of the Act to provide that the chairperson and members of the council shall serve for a term of three (3) years and eligible for reappointment for one further term.
Establishment of the National Examination Appeals Tribunal	The KNEC (Amendment) Act, 2017 establishes the National Examination Appeals Tribunal at Section 40B of the Act. However, the tribunal has only handled one case since its establishment therefore there is no need for its existence. As earlier discussed herein, all appeals of the decision of the council should thus be handled by the Education Appeals Tribunal.	Delete Section 40B and merge tribunal with the Education Appeals Tribunal and provide that appeals of the decision of the council be made at the Education Appeals Tribunal.

5. Teachers Service Commission Act No. 20 of 2012

Issues	Analysis	Recommendations
Duplication of Quality Assurance function between MoE and TSC.	In Article 237 (3) of the Constitution establishes TSC and mandates it to "review the standards of education and training of persons entering the teaching service". Under Section 11(c) of Act, TSC is mandated to "ensure that teachers comply with the teaching standards set by the Commission", while under Section 11 (f) TSC is required to "monitor the conduct and performance of teachers in the teaching service".	Section 11 (c), (f) and Section 35 (1) of the TSC Act and related provisions in the TSC regulations should be amended to cure the duplication of the quality assurance function between MoE and TSC.

	In implementing both Sections 11(c) & (f) the Commission developed TSC code of regulations, 2015 (Development, Review and Maintenance of Entry and Performance Standards), which provides under regulation, 44 "that the Commission may for purposes of maintaining the performance standards, designate a Quality Assurance and Standards Officer at the County and Sub County level".	The function of quality assurance and standards is the sole function of the MoE. TSC function should be to the teacher as a professional and employee within the framework of performance evaluation and not quality assurance of education in a basic education institution by redesigning the teacher performance evaluation to be similar to performance evaluation in other sectors of civil government and to provide for control of operations in learning institutions for MoE.
	From the foregoing, it is apparent that the function of the TSC as enshrined in the Constitution, is mis-interpreted in the TSC Act and TSC Code of Regulations for teachers. This is because, TSC has established a Directorate of Quality Assurance and Standards at the headquarters with offices across the entire Country thus overlapping with the responsibilities of the Directorate of Quality Assurance and Standards in the Ministry of Education.	
	Furthermore, Section 35 (1) of the TSC Act provides that "the commission shall take all necessary steps to ensure that persons in the teaching service comply with the teaching standards prescribed by the commission under this Act". However, this is in conflict with the function of the National Government as prescribed under Section 15 Part 1 of the Fourth Schedule of the Constitution.	
	In a letter dated 10th September 2014, the Commission for the implementation of the Constitution (CIC) concluded that Section 35 (1) of the TSC Act, which required the commission to take all necessary steps to ensure that persons in the teaching service comply with the teaching standards prescribed by the commission under the Act is unconstitutional.	
	CIC pointed out that 'compliance with standards is the responsibility of the National Government' and therefore whether a teach displays the standards at work is the Primary work of the National government. The Attorney General in a letter dated 19th December, 2014 addressed to the Cabinet Secretary Education concurred with CIC.	
Pre-Service and In-Service Teacher Training	Section 35 (2) of the Act provides that the commission shall require every registered teacher to undertake career progression and professional development programmes as may be prescribed by regulations made under the Act.	Section 35 (2) of the TSC Act is unconstitutional and should be deleted together with the related provisions in the TSC regulations. Pre-service and in-service teacher training is the responsibility of the MoE.
	On the other hand, the fourth schedule of the constitution mandates the national government to set education policy, standards, and curricula for all levels of education and training. This means that the national government is required to develop programmes and curricula for teacher education and training.	

	Thus, Section 35 (2) of the TSC Act is unconstitutional on the basis that Article 237 does not mandate TSC to conduct any form of capacity building. Pre-service and in-service teacher training is therefore the responsibility of MoE.	
Deployment, Transfer and Promotion of Teachers	Article 237 (2) (c) & (d) of the constitution mandate TSC to deploy, transfer and promote teachers. On its part, MoE runs the schools through the BoMs and the day to day activities of the school are undertaken by the headteacher in the case of a Primary school and a principal in the case of a Secondary school on behalf of MoE. The teachers are employees of TSC but they run and implement the curriculum developed by MoE through KICD. Thus, though the teachers are employees of TSC they work for MoE which is expected to supervise and quality assure the teacher delivery of the curriculum. However, it is noted that the deployment, transfer and promotion of these teachers is done without consultation with MoE.	Deployment, transfer and promotion of teachers by TSC should be done in consultation with MoE. MoE to sit in the committees that is deploying, transferring and promoting of teachers, headteachers and principals.
Accountability of heads teachers and principals	Currently head teachers and principals employed and deployed by TSC manage basic educations institutions but are not accountable to the MoE who is the owner and financier of the schools. (i) The roles and responsibilities of a principal and head teacher include: - (ii) Organization and management of approved school curriculum; (iii) Management and control of school finances and stores; (iv) Management and motivation of human resource in the school; (v) Secretary of the school BOM and PTA; (vi) Management and maintenance of the school plant equipment; (vii) Teaching subjects of specialization. These roles and responsibilities are conferred to them by the MoE. However, for example, where there has been a case of mismanagement of funds or resources by a head teacher or principal, the Principal Secretary State Department of Basic Education at the MoE cannot hold the head teacher or principal to account, nor is he/she involved in their discipline. Similarly, TSC does not have the mandate to supervise financial management at the schools.	TSC to employ and deploy the head teachers and principals in basic education institutions who will be agents of MoE in the management of the institutions thus accountable to MoE as accounting and authorized officers. Framework should be borrowed from the Public Service Commission (PSC). Thus, a provision be included in the Basic Education Act to state that head teacher and principals in a basic education institution shall be agents of the MoE.

Disqualification of Chairperson and Members of the Commission	Section 8 (1) of the Act provides that within fourteen days of the commencement of this Act, or whenever a vacancy arises in the commission, the President in consultation with the Prime Minister shall by notice in the Gazette declare a vacancy and constitute a selection panel for the purpose of selecting suitable candidates for appointment as the chairperson or member of the commission. The phrase "within fourteen days of the commencement of this Act, has been overtaken by events and the post of Prime Minister has since been abolished.	1. Amend Section 8 (1) to delete the phrase "within fourteen days of the commencement of this Act, or" and "in consultation with the Prime Minister".
	Section 8 (5) of the Act provides that the selection panel shall, within seven days of convening, invite applications from persons who qualify for nomination and appointment as chairperson or member of the commission by advertisement in at least two daily newspapers of national circulation. Such should include advertisement in the TSC website with the current wide use of technology.	2. Amend Section 8 (5) to include advertisement in the TSC website. 3. Delete the whole of Section 8 (17) of the TSC Act.
	Section 8 (17) of the TSC Act provide that until after the first general election under the Constitution, the President shall in nominating persons for appointment as chairperson or member of the Commission act in consultation with the Prime Minister. The post of Prime Minister has since been abolished.	4. Amend Section 8 (18) of the TSC Act by deleting the phrase "in consultation with the Prime Minister may".
	Section 8 (18) provide that despite the foregoing provisions of this Section, the President, in consultation with the Prime Minister may - by notice in the Gazette, extend the period specified in respect of any matter under this Section by a period not exceeding twenty-one days. The post of Prime Minister has since been abolished.	
Conduct of the Affairs of the Commission	Section 15 (3) of the Act provides that the commission may invite any person to attend any of its meetings and to participate in its deliberations, but such a person shall no right to vote at the meeting. The provision should be reworded for clarity.	1. Amend Section 15 (3) of the TSC Act to include the word "have" between shall and no.
	Clause 2 of the Second Schedule of the Act provides that the quorum of a meeting of the commission shall be one half of members. In accordance with Mwongozo quorum of a meeting should be two thirds of the members.	2. Amend clause 2 of the Second Schedule to state that quorum shall be two thirds of the members.
	Clause 5 of the Second Schedule of the Act provides for instances where there may be conflict of interest. However, the provision is too detailed and is not well understood.	3. Amend Clause 5 of the Second schedule to read "a member who has a direct or indirect interest in a matter being considered or to be considered

		by the commission shall, as soon as the relevant facts regarding the matter come to knowledge of the member, disclose the nature of such interest, and shall not be present during any deliberations on the matter."
Secretary of the Commission	Section 16 (5) & (6) of the Act provides for the duties and responsibilities of the Secretary. However, the Section as described is wordy and confusing as some of the duties and responsibilities given fall on other persons e.g. the SRC. Section 17 (2) of the TSC Act provides for the procedure for removal of the Secretary. The terms and conditions indicated therein are not clear.	1. Amend Section 16 (5) of the TSC Act to read as follows, "the Secretary shall be the chief executive of the commission, and shall be responsible for the management of the day-to-day activities of the commission, for clarity. 2. Delete Sub-Section (6) of Section 16 of the TSC Act. 3. Amend the whole of Section 17 of the TSC Act to read as follows: (1) the secretary may be removed from office by the commission, in accordance with the terms and conditions of service, for - 4. Amend Section 30 (3) of the TSC Act to include last known postal address or by electronic means. 5. Delete Section 31 (1) (a) of the TSC Act. inability to perform the functions of the office arising out of physical or mental incapacity;

		gross misconduct or misbehavior; incompetence or negligence of duty; or any other ground that would justify removal from office under the terms and conditions of service. (2) Before the secretary is removed under Sub-Section (1), the secretary shall be given an opportunity to defend himself or herself against any allegations against him or her.
Appointment of members of its staff	Section 16 (6) of the TSC Act provides for the appointment of the members of staff taking into account: (a) persons with disabilities; and (b) regional and ethnic diversity of the people of Kenya. This is not all inclusive as provided for in the constitution.	Amend Section 16 (6) of the TSC Act to read "taking into account".
The Register	Section 27 (e) of the Act provides that the commission shall not register a person as a teacher if such person is engaged in any activities which, in the opinion of the commission, are prejudicial to peace, good order or good government in Kenya. The provision is broad and subject to abuse. Section 30 (1) (c) & (f) of the Act provides that the commission may, after inquiry, cause to be removed from the register the name of any person who has been convicted of a sexual offence or an offence against a pupil or student; and suffers from such physical or mental illness or infirmity which renders the person incapable of performing the duties of a teacher. The physical or mental illness or infirmity should be in the opinion of a registered medical practitioner who has the expertise to make such determination. Section 30 (3) of the Act provides that subject to the provisions of the Act, the removal of a teacher's name from the register shall be notified by the commission to the person by registered mail addressed to his or her last known address. The option of use of electronic means is not provide for in the Act.	1. Delete the whole of Section 27 (e) of the TSC Act. 2. Amend Section 30 (1) (c) of the TSC Act to replace the word phrase "pupil or student" with "learners". 3. Amend Section 30 (1) (f) to read as follows: suffers from such physical or mental infirmity which in the opinion of a registered medical practitioner, renders the person incapable of performing the duties of a teacher.

		Section 31 (1) (a) of the Act provides that where the name of any person has been removed from the register, the commission may, either of its own motion or on the application of the concerned teacher made in the prescribed manner, and in either case after observing due process, direct that (a) the removal of that teacher's name from the register be confirmed.	4. Amend Section 31 (2) of the TSC Act by deleting "after the expiry of a period of eighteen months from the date of removal of the name from the register."
		Section 31 (2) states that an application under Sub-Section (1) may only be made after the expiry of a period of eighteen months from the date of removal of the name from the register. The period is eighteen months is unreasonable and unjustifiable. Section 31 (1) (a) of the Act provides that where the name of any person has been removed from the register, the commission may, either of its own motion or on the application of the concerned teacher made in the prescribed manner, and in either case after observing due process, direct that (a) the removal of that teacher's name from the register be confirmed. Section 31 (2) states that an application under Sub-Section (1) may only be made after the expiry of a period of eighteen months from the date of removal of the name from the register. The period is eighteen months is unreasonable and unjustifiable.	and replace with "after the expiry of a period of 6 months from the date of removal of the name from the register". 7. TSC should be registered with the Office of the Data Commissioner subject to the Data Protection Act.
Discipline of Registered Teachers		Section 33 (1) of the Act provides that the commission may, subject to the regulations made under the Act, take disciplinary action against any person registered as a teacher under the Act. The phrase "subject to the regulations made under the Act" means that a substantive law is subject to a subsidiary legislation. Section 34 (3) (j) of the Act provides that the commission, after interdicting a teacher, may take disciplinary actions against a registered teacher undertake any other lawful action as it may consider appropriate. Use of the phrase "undertake" is erroneous The Third Schedule of the Act and TSC Code of Conduct and Ethics for Teachers Regulations 2015 on disciplinary offences provides for the list offences under the Act. However, some of the offences listed contradict other laws, such as the penal code and other offences as prescribed in other laws, e.g. the Sexual Offences Act and the Children's Act have not been included.	1. Amend Section 33 (1) of the TSC Act to read the commission may, take disciplinary action against any person registered as a teacher under this Act. The procedure is stipulated by the regulations under the Act. 2. Amend Section 34 (3) (j) of the TSC Act by deleting the phrase "undertake". 3. Amend the Third Schedule of TSC Act and TSC (Code of Conduct and Ethics for Teachers) regulations 2015 on disciplinary offences.

Management of Information	Section 42 (5) of the Act provides that the right of access to information under Article 35 of the constitution shall be limited to the nature and extent specified under that Section. The constitution already provides for the limits on the right of access of information.	Delete Section 42 (5) of the TSC Act.
Appeal of the Decision of TSC	The Act does not make provision for appeal. Regulation 151 (1) of the code of regulation for teachers, provides that the discipline process will be administered at the Commission's headquarters and at the county level, and regulation 156 (1) there is established an ad-hoc Committee of the Commission known as the Teachers Service Review Committee which shall consider and determine reviews arising from the discipline process under regulations. With the proposal that the EAT hear all appeals in the education sector, the Act should provide that appeals of the decision of TSC be made at the EAT.	Amend the TSC Act by introducing Section 46A to read "a person aggrieved by the decision of TSC shall appeal to the EAT as provided for in the "Education Appeals Tribunal Bill."

Attachment 1: Draft Bill on Teacher Education and Training, 2023

THE REPUBLIC OF KENYA

LAWS OF KENYA

TEACHER EDUCATION AND TRAINING BILL, 2023

An Act of Parliament to provide for the establishment of the Kenya School of Teachers and Education Management and the Kenya Teachers Training College as self-governing institutions and to provide for their governance, control and management and for connected purposes.

[Date of Assent: ……………, 2023]

[Date of Commencement: ……………, 2023]

ARRANGEMENT OF CLAUSES

Clauses

PART I - PRELIMINARY

Attachment 2: Draft Bill on Management of Scholarship and Bursaries in Basic Education, 2023

THE REPUBLIC OF KENYA

LAWS OF KENYA

MANAGEMENT OF SCHOLARSHIP AND BURSARIES IN BASIC EDUCATION BILL, 2023

A Bill of Parliament to provide for the management of all scholarship and bursaries in Basic Education and the establishment of Kenya Basic Education Bursaries and Scholarships Council and for connected purposes.

[Date of Assent: ……………, 2023]

[Date of Commencement: ……………, 2023]

ARRANGEMENT OF CLAUSES

Clauses

PART I – PRELIMINARY

PART III – ADMINISTRATION OF THE SCHOLARSHIP AND BURSARIES

PART IV – ADMINSTRATION AND FINANCE

PART V – FINANCIAL PROVISIONS

PART VII – MISCELLANEOUS PROVISIONS

PART VIII – TRANSITIONAL PROVISIONS

SCHEDULES

FIRST SCHEDULE - CONDUCT OF THE BUSINESS AND AFFAIRS OF THE FOUNDATION

THE REPUBLIC OF KENYA

LAWS OF KENYA

EDUCATION APPEALS TRIBUNAL BILL, 2023

A Bill of Parliament to make provision for the establishment of a Tribunal; for the management and administration of education appeals, and for connected purposes

[Date of Assent: ……………, 2023]

[Date of Commencement: ……………, 2023]

ARRANGEMENT OF CLAUSES

PART I – PRELIMINARY

Clauses

PART III – APPEALS TO THE TRIBUNAL

PART IV – OFFENCES AND EVIDENCE

PART V – CONSEQUENTIAL AMENDMENTS AND SAVINGS

Appendix 10.1: Number of Students Placed by KUCCPS Against the Declared Capacity Per Programme in Public Universities. (KUCCPS, 2022)

No.	University	Number of Programs	Declared Capacity	Number placed	Under utilised capacity	Average students per programme
1	Turkana University College	12	1,261	242	1,019	20
2	Taita Taveta University	17	1,530	390	1,140	23
3	Garissa University	13	2,490	310	2,180	24
4	Kenyatta University - Mama Ngina University College	8	640	252	388	32
5	Technical University of Kenya	53	1,896	1876	20	35
6	Southeastern Kenya University	44	3,140	1617	1,523	37
7	Alupe University	16	990	614	376	38
8	Pwani University	48	4,830	1856	2,974	39
9	Tom Mboya University	32	4,320	1282	3,038	40
10	Bomet University College	22	2,366	917	1,449	42
11	Technical University of Mombasa	43	2,670	1813	857	42
12	Meru University of Science and Technology	55	4,915	2365	2,550	43
13	Kaimosi Friends University	23	2,020	1101	919	48
14	Tharaka University	23	2,570	1118	1,452	49
15	Kirinyaga University	42	5,020	2122	2,898	51
16	Maasai Mara University	50	5,600	2554	3,046	51
17	Co-operative University Of Kenya	32	3,160	1683	1,477	53
18	Muranga University of Science and Technology	38	3,870	2159	1,711	57
19	University of Eldoret	43	4,310	2466	1,844	57
20	Rongo University	40	5,180	2295	2,885	57
21	Masinde Muliro University of Science & Technology	73	5,990	4251	1,739	58
22	Machakos University	32	3,155	1897	1,258	59
23	Kisii University	77	9,995	4723	5,272	61
24	Dedan Kimathi University of Technology	28	2,045	1725	320	62
25	University of Embu	32	3,590	2053	1,537	64
26	Karatina University	38	4,985	2567	2,418	68
27	Chuka University	60	6,315	4061	2,254	68

28	Jomo Kenyatta University of Agriculture and Technology	95	7,816	6471	1,345	68
29	Moi University	62	6,070	4428	1,642	71
30	University Of Kabianga	30	3,473	2166	1,307	72
31	Jaramogi Oginga Odinga University of Science and Technology	27	2,975	2039	936	76
32	Laikipia University	27	3,770	2058	1,712	76
33	Kenyatta University	87	7,701	6640	1,061	76
34	Egerton University	56	6,610	4439	2,171	79
35	Maseno University	75	8,760	6204	2,556	83
36	Multimedia University of Kenya	23	2,225	1980	245	86
37	Kibabii University	21	3,410	2146	1,264	102
38	University of Nairobi	56	6,500	5786	714	103
39	Koitaleel Samoei University College	3	750	440	310	147
	Total		**158,913**	**95,106**	**63,807**	

Appendix 10.2: Higher Education Funding Model

The Model: Variable Scholarship and Loan Funding Based on Means Testing

1. For Universities education, funding will be based on the actual cost of the program with the following sources of funding:
   (a) Government Scholarship - an average of 61%;
   (b) Government Loan - an average of 35.5%;
   (c) Household contribution - an average of 3.5%.

2. Student-centred funding for TVET education in the new model:
   (a) Funding is student-centred;
   (b) Funding is based on actual cost of the program;
   (c) Government Scholarship - an average of 58%;
   (d) Government Loan - an average of 32%;
   (e) Household contribution - an average of 10%.

3. Distribution of scholarships and loans to distinct categories of TVET students:
   (a) Vulnerable: Scholarship 80%; Loan 20%; Household 0.
   (b) Extremely Needy: Scholarship 70%; Loan 30%; Household 0.
   (c) Needy: Scholarship 50%; Loan 30%; Household 20%.
   (d) Less Needy: Scholarship 32%; Loan 48%; Household 20%.

4. Criteria for identification of students to be funded
   (a) Academic performance on KCSE exams.
   (b) Affirmative action:
       (i) Marginalized as defined by Commission on Revenue Allocation (CRA);
       (ii) Persons living with disability.
   (c) Household income bands classified according to the monthly household incomes outlined below;
       (i) Vulnerable – Ksh.0;
       (ii) Extremely Needy - Ksh. 23,671 per month and below;
       (iii) Needy - Ksh. 23,672 to Ksh.70,000;
       (iv) Less Needy - Ksh. 70,001 to Ksh. 200,000.
   (d) National priority areas for Human Capital Development in the country. The following are some of the current Government national priority areas: Agriculture; Animal Health; Climate Change; Medicine; Environment; Technology; Engineering; Applied Sciences; Nutrition and Dietetics; Blue Economy, etc.

5. Determining Students' level of need
   The Means Testing Instrument (MTI) to scientifically determine students' level of need assigns varied weights and scores students based on the following eight parameters:
   (a) Parent's background – orphan, single parents, both parents, guardians.
   (b) Gender – male or female.
   (c) Course type – STEM, Arts, national priority area etc
   (d) Previous school type – private or public.
   (e) Expenditure on education – siblings in high school/tertiary institutions.

(f) Family size and composition – number of children; polygamous/monogamous; age of parents.

(g) Marginalisation – students/institutions in marginalized counties

(h) Disability – any form of disability.

7. Placement and Funding

(i) Placement by Kenya Universities and Colleges Central Placement Service (KUCCPS) shall not be linked to funding of students. The Universities Act of 2012 Section 56 part 1 (a) to be emended accordingly.

(ii) Admission of government-sponsored students harmonized to start in August/ September for uniformity and alignment to the Government Financial Year.

8. Access to funding by students

(i) Actual programme cost shall be disclosed to the student during the application process on the KUCCPS portal;

(ii) Students will be eligible to apply for financial assistance including Government Scholarships, loans and bursaries upon receiving an admission letter from the respective University/ TVET;

(iii) All other funding and sponsorships provided by the National Government Constituency Development Fund, County Government and other sponsors to be centrally coordinated to avoid multiple funding of the same student.

9. Universities to have diversified funding streams

(i) Student financing: Scholarships/loans/bursaries;

(ii) Research funding;

(iii) Capital Infrastructure Grants;

(iv) Fee for services such as Consultancy

10. Budget Policy Statement

(i) Universities' vote book budget line to be amended from the current 43 to one line referred to as – University Students Scholarships;

(ii) University Students Scholarships to be apportioned and disbursed by the Universities Fund as stipulated in the Universities Act, 2012.

11. Review of the Model

(i) The University funding policy and framework to be reviewed to determine fees for different categories of students: government sponsored, privately sponsored, and, foreign students;

(ii) Universities will be required to declare and publicise the actual cost of their programmes;

(iii) No public University shall levy additional charges or raise fees without the approval of the Universities Fund Board;

(iv) Kenya National Bureau of Statistics (KNBS) to provide input for reviewing the funding model every year.

Appendix 11.1: Specific Proposals for Legislative Amendments in TVET and Universities

1. Technical and Vocational Education and Training Act No. 29 of 2013

ISSUES	ANALYSIS	RECOMMENDATIONS
Technical and Vocational Education and Training Authority	Section 7 of the TVET Act provides for the functions of the Authority as follows, *inter alia:* at part (a) regulate and co-ordinate training under this Act; (Coordination is the function of the Ministry - State Department of TVET. Training also takes place in other Ministries); at part (d) determine the national Technical and Vocational Training objectives; (Determine" is absolute. TVETA therefore should "promote" what has been determined by the mother Ministry); and at part (h) develop plans, and guidelines for the effective implementation of the provisions of this Act.	1. Amend Section 7 (a) of the TVET Act to delete the words "and coordinate" and read "regulate TVET training;" (*Here it is expected that TVETA will regulate all TVET institutions providing training irrespective of the Ministry involved including professional bodies*). A detailed mechanism for such regulation should be provided. Amend the provision further to provide that in performing this regulatory role, TVETA shall consult and seek the opinion of other relevant agencies. 2. Amend Section 7 (d) of the TVET Act to read "promote the national technical and vocational training objectives;" 3. Amend Section 7 (h) of the TVET Act by deleting the function of developing plans, and guidelines for the effective implementation of the provisions of this Act; as it is already provided for in sub-Section (a).
Board of the Authority	Section 8 (1) of the TVET Act provides for the composition of the board to include: (a) Chairperson (b) the Principal Secretary in the Ministry responsible for finance; (c) the Principal Secretary in the Ministry responsible for technical and vocational education and training; (d) the chief executive of the Fund;	Delete Section 8 (1) (d) of the Act which provides for the Chief Executive of the Fund.

	(e) five persons who have proven knowledge and experience in technical and vocational education and training, legal and financial matters of whom at least two and not more than three shall be of the same gender.	
Special Needs Education in TVET	The Act makes no provision for Special Needs in TVET.	Amend the TVET Act to add a provision for the promotion of access to quality TVET training for persons with special needs.
Transition and linkages	The Act does not provide for linkage and transition between TVET and Universities and National Polytechnics and Technical University.	Amend the TVET Act to add a provision on linkages and transition which will provide a mechanism for linkage and transition between TVET and Universities i.e., 1. The recognition of how diploma shall be treated in Universities. 2. Technical Universities under Section 25 of the Universities Act should develop a CAT system that enables students from National Polytechnics to be admissible. 3. Direct link between TVET institutions and Technical Universities as provided for under the Universities Act with regards to: - Capacity Building - Sharing Resources
Licensing, Registration and Accreditation of Institutions and Trainers	Part IV of the TVET Act provides for the Licensing, Registration and Accreditation of Institutions and Trainers.	This part should be aligned with the functions of the two levels of government and other sectors.
Categories of Institutions	Section 26 (1) of the TVET Act provides that institutions shall be organized under the following categories: - (a) vocational training centers, which shall offer courses up to Artisan Certificate; (b) technical and vocational colleges, which shall offer programmes up to Diploma;	Amend Section 26 (1) of the TVET Act by deleting paragraphs (c) & (e).

	(c) technical trainer colleges, which shall offer up to higher diploma level; (d) National Polytechnics, which shall offer up to higher Diploma level; and (e) such other categories as the Cabinet Secretary may specify.	
Organs of Governance	Section 28 (1) (a) of the TVET Act provides that the Cabinet Secretary shall, in consultation with the Board, establish the following principal organs to govern the respective public institutions registered under this Act: (a) Boards of Governors for vocational training centers;	Delete Section 28 (1) (a) of the TVET Act which provides for Boards of Governors for vocational training centers.
Criteria for Appointment of Council and Board of Governors	Section 28 of the TVET Act provides for the criteria of appointment of council and Board of Governors.	Amend Section 28 of the TVET Act to provide for "Boards of Management (BOMs)" as opposed to the use of the phrase "Board of Governors". Also, Amend the Section further to provide that the Cabinet Secretary shall develop guidelines on the appointment of the BOMs.
Functions of the governing bodies of training institutions	Section 29 of the TVET act provides for the functions of the governing bodies of training institutions.	Amend Section 29 of the TVET Act by deleting paragraph (l) which provides for recruiting and appointing trainers from among qualified professionals and practising trades persons in relevant sectors of industry.
Vocational Training Centers under County Governments	There is currently no framework to guide counties on the management of the VTCs.	The provisions of the County Vocational Education and Training Bill (Senate Bill) be incorporated in the TVET Act so as to provide for one legislation to harmonize and align the contents.
Employment and transfer of TVET Trainers	PSC approved the transfer of service for trainers in Polytechnics, Technical Institutes and Vocational Training Institutes to the Ministry of Education, State Department for Vocational and Technical Training with effect from 1st July 2018.	Amend Section 29 by deleting paragraph (l) and replacing with a substantive provision providing for the establishment of the Intergovernmental Technical Trainers Service Council to employ, transfer,

	Subsequently via Circular No. 17/2018, TSC transferred the services of a total of 3780 trainers and institutional administrators to the MoE under PSC.	promote and remunerate all technical trainers except those employed by TSC to teach in Basic Education.
Technical and Vocational Education and Training Curriculum Development, Assessment and Certification Council (TVET-CDACC)	TVET CDACC is a body corporate established under Section 44 (1) of the TVET Act to undertake design and development of curricula for the training institutions' examination, assessment and competence certification and advise the government on matters related, thereto. There is duplication of roles between TVET CDACC, KICD and KNEC as evident below: (a) Section 45 (1) of the TVET Act vest the function of undertaking designing and development of Curricula for the training institutions' examination, assessment and competence certification on TVET CDACC. (b) Section 4 (d) (viii) of the KICD Act vest the function of developing, reviewing and approving programs, curricula and curriculum support materials that meet international standards for both technical and vocational education and training on KICD. (c) Section (10) (1) (a) of the KNEC Act vest the function of setting and maintaining examination standards, public academic, technical and other national examinations within Kenya at basic and tertiary levels on KNEC. In 2011, the then Minister for Higher Education, Science and Technology established a Taskforce on the Alignment of the Higher Education, Science and Technology (TAHEST) Sector with the Constitution.	1. Delete Section 4 (d) (viii) of the KICD Act and Section 10 (1) (a) of the KNEC Act to transfer the curriculum and assessment functions to TVET CDACC. 2. Repeal the Industrial Training Act and merge the National Industrial Training Authority (NITA) with TVET CDACC. 3. Transfer the training levy function from NITA to the proposed amalgamated funding body i.e. Tertiary Education Placement and Funding Board.

	The Taskforce generated the Report of the Taskforce on the Alignment of the Higher Education, Science and Technology (TAHEST) Sector with the Constitution of Kenya ("the TAHEST Report"). The TAHEST report noted TVET is a specialized and fast changing sub-sector that requires continuous review of curricula to be in tandem with the rapidly changing needs of the market. The shift from time bound to competence-based training requires a new framework of assessment which is currently inadequate. KICD and KNEC were not appropriate bodies to prepare curriculum and assess TVET respectively. This is due to the high fluid nature of the demand of the industry and the formative and practical nature of assessment.	
Kenya School of TVET	The school is established under Legal Order No. 123 of 2022 and Presidential Executive Order No.1 of 2022.	Amend the TVET Act to anchor KS-TVET in the Act as opposed to the Legal Order. KS-TVET be included as a category of institution under Section 26. It shall train trainers and establish campuses. Government can consider some of the Teachers Training Colleges providing TVET to be under KS-TVET. Provide for its decentralization to regions.
Composition of the Certification Council	Section 46 (1) of the TVET Act Provides the Certification Council shall consist of – (a) a chairman appointed by the Cabinet Secretary; (b) the Principal Secretary of the Ministry for the time being responsible for TVET; (c) the Director-General of the Authority; (d) six members appointed by the Cabinet Secretary as follows:	

	(i) one member from the Senate of a technical University; (ii) one member from among the principals of Technical Colleges; (iii) one member from the national polytechnics; (iv) not more than three members from industry with complementary competencies; (e) the Council Secretary who shall be the secretary to the Council	
		1. Amend Section 46 (1) of the TVET Act to include the Principal Secretary Responsible for National Treasury in the composition of the Certification Council. 2. Amend paragraph (d) (iv) to reduce the number from three to two and delete paragraph (e) to delete council secretary and make the Director General the secretary of the Council. 3. Amend the title of the head of management from "Director General" to "Chief Executive Officer."
Technical and Vocational Education Fund (TVEF)	Part IX of the TVET Act provides for the establishment of the TVEF which shall be managed by the board.	Delete the whole of part IX of the TVET Act and provide for TVET funding board in the proposed legislation which shall amalgamate the tertiary education funding bodies namely; University Funding Board, HELB and TVEF (**Attachment 1 of Appendix 7.1)**.

2. Kenya National Qualification Framework Act No. 22 of 2014

ISSUES	ANALYSIS	RECOMMENDATIONS
	1. Recognition and Equation The TVET Act and the KNQF Act have specified what TVETA & KNQA are expected to do with regard to recognition and equation of qualifications as follows: - KNQA is expected to provide for national standards on recognition and equation of qualifications awarded by national and foreign institutions. - TVETA is expected to recognize and equate Diploma and Certificate qualifications obtained from Foreign Vocational and Technical Training Institutions. - The established national standards by KNQA will be used by sub sector players (TVETA, TVET CDACC & CUE). However, Regulation 10 of the KNQF Regulations, 2018 provides for recognition, equation and approval of foreign qualifications.	
Overlapping Mandate of KNQA with TVETA and TVET CDACC	The said Regulation 10 is inconsistent with the provisions of Section 8 (1) (n), of the KNQF Act which stipulates that the Authority shall establish standards for harmonization and recognition of national and foreign qualifications by the sector players i.e. (TVETA & CUE). Further, the KNQF Regulations, 2018 mandates KNQA to recognize, equate and approve foreign qualifications. However, the KNQF Act does not provide KNQA with the mandate to equate foreign qualifications.	Amend the KNQF Act to make a provision that KNQA shall develop national standards for use by the different entities in the sector, i.e. - KNEC for Basic Education - TVETA for TVET - CUE for Universities KNQA shall also act as a depository. Also, a provision be added to limit the powers of KNQA as regards recognition and equation.
	2. Recognition of Prior Learning Section 7 (i) of the TVET Act provides that the Authority shall establish a training system which meets the needs of both the formal and informal sectors as provided under the Act.	Amend the KNQF Act to make a provision that KNQA shall develop national standards for use by the different entities in the sector, i.e. - KNEC for Basic Education - TVETA for TVET - CUE for Universities

	Section 4 (c) mandates the KNQA to develop a national framework for the coordination and implementation of the RPL. Section 32 (2) of the TVETA Act provides that the training programmes offered by TVET institutions must operate within a framework which leads to lifelong education and training. RPL as described under Section 43 of the TVET Act No.29 of 2013 is not a mandatory function of TVETA. TVET CDACC and other accredited examining bodies are to undertake/ coordinate assessment under RPL and subsequently issue certificates to confirm attainment of the qualification which the KNQA shall register into the KNQF. KNQF regulation 11 provides for the Authority to receive and approve applications and issue certificates of experiential learning for an applicant seeking recognition of prior learning. However, Section 8 (1) (p) of the KNQF Act states that the Authority shall provide pathways that support the development and maintenance of flexible access to qualifications. Regulation 11 of KNQF Regulations 2018 brings to existence a certificate of experiential learning.	
	3. Accreditation Section 8 (1) (b), of the KNQF Act No. 22 of 2014 mandates the Authority to develop a framework for the development of an accreditation system on qualifications. However, under the KNQF Regulations, 2018, regulation 4 provides for applications for accreditation, 5 provides for eligibility criteria for accreditation,	Amend the KNQF Act to make a provision that KNQA shall develop national standards for use by the different entities in the sector, i.e. - KNEC for Basic Education - TVETA for TVET - CUE for Universities Also, a provision be added to limit the powers of KNQA to accredit.

7 provides for inspection and certification, 8 provides for audit and investigation of accredited education institutions and 9 provides for renewal of a certificate of accreditation. The conflict arises where a TVET institution is required under the KNQF Regulations to apply for accreditation to award qualifications with KNQA yet prior to the institution commencing training, the institution has already been accredited by TVETA. Further it is noted that there are inconsistencies in the use of the word "accreditation" under the provisions of the KNQF Act and KNQF Regulations, 2018.	

3. Universities Act No.42 of 2012 (Revised 2020)

ISSUES	ANALYSIS	RECOMMENDATIONS
Definition of Terms	The interpretation of some of the terms provided for in the Universities Act are unclear and require to be reworded for better understanding. Also, there is need to include interpretation of other relevant terms for better implementation of the law.	Amend Section 2 to include definition of "Specialized Degree Awarding Institutions".
Double accreditation of academic programmes by Commission for University Education (CUE) and Professional Bodies on accreditation of academic programmes taught in Universities in Kenya.	Currently, the laws empower both CUE and Professional bodies to accredit of academic programmes thus causing confusion and additional charges on the Universities.	Amend Section 5A (3) of the Universities Act to make it mandatory for CUE to consult with professional bodies before approving any academic programme to which the academic programme relates. Also, following Court Judgement in HC Petition No.37 of 2017 (Kenya Medical Laboratory Technicians and Technologists Board & 5 Others vs the Hon. Attorney General), the learned Judge J.A. Makau found that the petitioners had failed to demonstrate how the amendment of the Universities Act through the University (Amendment) Act, 2016 violated their fundamental rights and freedoms under the Constitution.

	Also, Section 5A (3) of the Universities Act provides that CUE may, before approving any academic programme consult with any relevant body established by written law to regulate the profession to which the academic programme relates where such law empowers the professional body to approve or accredit courses offered at any University or colleges, however such consultation by CUE is not mandatory.	The Petitioners set out the Articles of the Constitution without substantiation and that was not enough. It was further established that Section 5A of the Universities (Amendment) Act 2016, grants Commission of University Education the sole mandate of regulating and accrediting Universities and if there was any conflict with the professional bodies, the provisions of the Act prevail which did away with the issue of overlapping mandate. Therefore, the following Sections of respective Acts giving accreditation status of academic programmes in Universities be deleted as follows: - (i) Section 7(1) (i) (m) of the Engineers Act 2011, No. 3 of 2012. (ii) Section 5 (1) and 5(2) (a) - (e) of the Medical Laboratory Technicians and Technologists Act, CAP. 253a. (iii) Section 8 (1) (a) and 8 (4) of the Legal Education Act, No. 27 of 2012 and Section 13 (1) of the Advocates Act, CAP 16. (iv) Section 6(1), 7(1) and 7(2) (a) of the Veterinary Surgeons and Veterinary Para-Professionals Act No. 29 of 2011. (v) Section 6 (d) of the Nutritionists and Dieticians Act No. 18 of 2007. (vi) Kenya Medical Practitioners and Dentists Board established under Medical Practitioners and Dentists Act CAP. 253. (vii) Section 4(g) of the Media Act, CAP. 411B Amend the Universities Act to further provide that no professional body shall charge any University fee for accreditation of academic programmes except as prescribed under the Act.
Other members of staff of the Commission	Section 12 (2) of the Universities Act provides that all appointments of other member of staff of CUE under this Section shall take into account gender equity,	Amend Section 12 (2) of the Universities Act to include Persons with Disabilities.

	ethnic and regional balance in accordance with the Constitution.	
Award of Diploma and Certificates by Universities.	Section 20 (1) (e) (ii) & (iii) of the Universities Act provides that a University may award Diploma and Certificates. PWPER, in its analysis of tertiary education realized that Universities and TVET sector, despite being in the same subsector, compete for students for these courses. This creates contradiction of Section 20(1) (e) (ii) & (iii) of the Universities Act and Section 26 (1) of the TVET Act. This has also led to duplication, ambiguities, efficiency constraints and weak linkages between Universities and TVET. There is therefore need to amend the Universities Act with a view to streamlining effectiveness and efficiency in the subsector. The amendments should be geared towards ensuring improved access, through providing a seamless pathway to degree completion which allows students to accumulate credits for individual modules or units of study completed at a TVET institution and transfer them to a University degree program.	Amend Section 20 (1) (e) (ii) to delete the word diploma and delete Section 20 (e) (iii) to restrict Universities from offering certificates and ordinary diplomas.
Declaration of Technical Universities	Section 25 (2) of the Act provides that where a declaration under this Section is made with respect to a public institution, it shall only apply where such institution is a National Polytechnic within the meaning of the Technical and Vocational Education and Training Act, 2013.	Amend Section 25 (2) by adding the words "or was previously" to enable former National Polytechnics to qualify to become Technical Universities. Include a transitional clause to enable the re-charting of the Technical University of Kenya (TUK) and Technical University of Mombasa (TUM) under this provision.

Universities in Counties	Section 26 of the Universities Act provides that CUE shall ensure the establishment of public Universities in each of the counties, giving priority to counties that do not have Universities immediately after following the coming into force of this Act. This is not financially feasible given the current state of affairs of the already established public Universities.	Delete the whole of Section 26 of the Universities Act. While the provision is recommended for deletion, it is further recommended that government review the establishment of all educational institutions i.e. TTCs, TVETs and Universities, seek the possibilities for merger and develop a policy on the same while ensuring equity as regards access to education.
Merger, Conversion and Amalgamation of Universities	With the massification of public Universities, several challenges affecting the future and viability of the sector has arisen thus there is need for the Government to ensure sustainability of the public University sector.	Amend the Universities Act by inserting a new Section to provide for merger, conversion and amalgamation of two or more public Universities: two or more public Universities colleges: to make a public University college, a campus of another University and the closure of a public University or public Universities colleges as provided for in the regulations under the Act.
Appointment of Chancellor of a Public University	The Second Schedule of the Universities Act provides that the five names shall be proposed to the Senate and submitted to the *Public Service Commission* for shortlisting and identification of three suitable candidates, ranked in order of merit.	Amend the Second Schedule of the Universities Act to replace PSC with the Council.
Timelines for Appointment of Chancellor	The law does not provide for timelines for appointment of Chancellor.	Process should commence six months before the expiry of the term of the sitting Chancellor. Council shall initiate the process by asking the Senate to propose the five names. Amend the law to provide that the appointment by the President should be done within 30 days.
Qualification for Appointment of a Chancellor	Section 38 (4) of the Universities Act provides that a person shall only be appointed as a Chancellor where the person is a person of high moral character and integrity in accordance with Chapter Six of the Constitution.	Amend Section 38 (4) of the Universities Act to provide that in addition to been a person of high moral character and integrity in accordance to chapter six of the Constitution, the Chancellor must be a holder of an earned PHD, and have had a distinguished career in public or private sector.

Appointment of a Vice Chancellor Principals, Deputy Vice-Chancellors, and Deputy Principals	Section 35 (1) (a) (v) of the Universities Act provides that in the case of public Universities, appoint Vice Chancellor, Deputy Vice Chancellors and Principals and Deputy Principals of Constituent Colleges, in consultation with the Cabinet Secretary, after a competitive process conducted by the Public Service Commission;	Delete Section 35 (1) (a) (v) of the Universities Act and provide that the Vice-Chancellor, Principals, Deputy Vice-Chancellors and Deputy Principals be appointed by the Cabinet Secretary from three names forwarded to him/her by the Council after a competitive recruitment. The Council shall: - Advertise - Submit the names to stakeholders - Conduct interviews - Develop minutes - Select three names - Forward to Cabinet Secretary for appointment - Cabinet Secretary to appoint within 14 days.
	Section 39 (1) of the Universities Act provides that the Vice-Chancellor of a University shall be appointed: (a) in the case of a public University, by the Cabinet Secretary on the recommendation of the Council, after a competitive recruitment process conducted by the Council; and (b) in the case of a private University, by the respective University Council in accordance with the provisions of the Charter.	
Appointment of Council Members of Public Universities	Section 36 of the Universities Act provides for the council of a public University.	1. Amend Section 36 (1) (d) to delete the phrase "through an open process in such a manner as may be prescribed in guidelines issued by the Cabinet Secretary" 2. Insert Section 36(1B) to read with "In the case of appointment of council members, the Cabinet Secretary shall constitute a selection panel to advertise, shortlist, interview and make recommendations to the Cabinet Secretary on qualified applicants for consideration as council members in line with Section 36 (3) of the Act."

Objective to consider when selecting	Section 36 (2) of the Act provides that in making appointments under this Section the appointing authority shall have regard to the objectives of the development of University education, ensuring that there are balanced competencies, gender equity, and the inclusion of stakeholders, persons with disabilities, the marginalized and other minority groups.	Amend Section 36 (2) of the Act to include regional balance.
Composition of the Selection Panel	This is not provided for in the Act.	The selection panel shall comprise of: - 1. Chairperson with vast experience in running a University. 2. The Principal Secretary responsible for University Education or his/her representative. 3. Attorney General or his/her representative. 4. The National Council for Persons with Disabilities representative. 5. PSC representative.
Term Limits of Council Members	The term limits of council members as per Section 36 (5) of the Universities Act is not clearly stated as it reads in part that either three or four years while Mwongozo: The Code of Governance for State Corporations clearly states that the tenure of a Council member shall not exceed a cumulative term of six (6) years or two terms of three years each. It further requires the appointing authority to ensure that the tenures of the council members are staggered to guarantee a phased transition. Appointment of the members of council for most Public Universities is often done almost at the same time for all the members leading to gaps on expiry of the contracts.	Amend the Section 36 (5) of the Universities Act as provided in Mwongozo which states that "the tenure of a Board Member shall not exceed a cumulative term of six years or two terms of three years each provided that upon first implementation of this code, the appointing authority may extend the term of not more than a third of the members of the board in order to achieve continuity.

	Universities as a result operate without Councils for some time as the Cabinet Secretary works towards filling the vacancies reactively. There is need to clarify the term limits and to also engage members on rotation in order to allow for effective succession planning and continuity in the activities of Council.	
Qualification of Chairperson of Council	Section 36 (2) of the Universities Act provides that the chairperson of council to be a PhD holder and a member of Council to be a master's degree holder.	Amend Section 36 (2) of the Universities Act to provide for qualification of chairperson of Council as master's degree holder with at least 10yrs experience in management and members of the council to be master's degree holder as well.
Appointment of Independent members of the Council		In appointment of independent members of the Council one must be a senior person with qualification in CPA(K) to head the Audit & Risks Committee.
University Funding Board	Part VI of the Universities Act provides for the establishment of the University Funding Board (UFB). The Universities Fund (UF) is managed by a board of trustees known as the UFB. The function of the trustees is to generally manage the UF. The specific functions of the trustees are to: advise the Cabinet Secretary in matters of University Education Financing; develop a fair and transparent criterion for allocation of funds to Universities; apportion funds to Universities; establish the maximum Differentiated Unit Cost (DUC) for the programs offered and to mobilize and receive funds for purposes of the fund from the Government, donors, and from any other sources.	Delete the whole of part VI of the University Act and provide for University funding in the proposed Bill.

Kenya Universities and Colleges Central Placement Service (KUCCPS)	Part VII of the Universities Act provides for KUCCPS to coordinate placement of government sponsored students.	Delete the whole of part VII of the Universities Act and transfer KUCCPS to Tertiary Education Placement and Funding Board. This is aimed at increasing KUCCPS efficiency given that its functions cover Tertiary education and not University only. Also, the placement of students by this body be limited to public Universities and colleges.
Proposed State Corporations and Public Universities Disciplinary Appeals Regulations	There is a proposed State Corporations and Public Universities Disciplinary Appeals regulation which provides a procedure for appeal of the decision of a State Corporation or a public University. This proposal conflicts with the proposal to have the Education Appeals Tribunal hear appeals from the whole education sector which include the decision of the council of public Universities.	The proposals in the State Corporations and Public Universities Disciplinary Appeals Regulations be incorporated in the proposed Education Appeals Tribunal Bill.

4. Science, Technology and Innovation Act No. 28 of 2013

ISSUES	ANALYSIS	RECOMMENDATIONS
Licensing of Research	Section 12 (3) of the Science, Technology and Innovation (STI) Act provides that any person undertaking or intending to undertake research in science and technology in the country, or who accesses, handles, or transfers any material or technology or moves it within, from or into the country, shall apply to the National Commission for Science, Technology and Innovation (NACOSTI) for the grant of a license in accordance with the Act. There is licensing research fee payable to NACOSTI in this regard by Universities yet research is a key mandate of Universities.	Amend the Science, Technology and Innovation Act to exclude Universities from paying license research fee.
Innovation	The STI Act provides for the establishment of NACOSTI, NRF and KNIA. However, under Executive Order No. I of 2022, KNIA now falls under the Ministry of Youth, Sports and Arts which calls for comprehensive review of legislation.	There is need for a more comprehensive review of legislation on Intellectual Property & Innovation.

5. Amalgamation of HELB, UFB and TVEF

ISSUES	ANALYSIS	RECOMMENDATIONS
Amalgamation of HELB, UFB and TVEF	HELB is a statutory body established by Higher Education Loans Act of 1995. The mandate of HELB is to manage a fund to provide loans to Kenyan students in higher education within and outside Kenya. The Board is also mandated to recover all mature loans issued since 1974. Despite the existence of this body, together with the others like UFB and TVEF there exists challenges such as: (a) TVET funding board has never been operationalized thus disadvantaging the students in TVET institutions. (b) Diploma students admitted in Universities are not funded because of the confusion of who is responsible. (c) Graduate students are not funded. (d) There is no coordinated way of disbursing the financial support to the students which is subject to abuse. (e) High administrative costs are incurred in maintaining several entities.	To provide for the amalgamation of all tertiary funding bodies: (a) Repeal the HELB Act; (b) Delete the Part VII (KUCCPS) and VIII (UFB) of the Universities Act and Part IX (TVETFB) of the TVET Act; (c) Develop the Tertiary Education Placement and Funding Bill (Attachment 1) establishing the Tertiary Education Placement and Funding Board with KUCCPS, HELB, UFB and TVETFB as directorates. This will create a strong agency to fund students at the tertiary level of education and to ensure coherence between funding and placement; and (d) Transfer the training levies functions from the ITA Act and the Tourism Act to the proposed Tertiary Education Placement and Funding Bill.

Attachment 4: Draft Bill on Tertiary Education Placement and Funding, 2023

THE REPUBLIC OF KENYA

LAWS OF KENYA

TERTIARY EDUCATION PLACEMENT AND FUNDING BILL

[Date of Assent: ……………, 2023]

[Date of Commencement: ……………, 2023]

ARRANGEMENT OF CLAUSES

Clauses

PART I – PRELIMINARY

PART II – ESTABLISHMENT AND FUNCTIONS OF THE BOARD

PART III – PLACEMENT

TERTIARY EDUCATION PLACEMENT AND FUNDING BILL

A Bill of Parliament to provide for the establishment of a Tertiary Education Placement and Funding Board, for the placement of the government sponsored students to public Universities, colleges and TVET institutions, for the management of a Fund to be used for providing loans and grants to assist Kenyan students to pursue tertiary education at such institutions within and outside Kenya, recognized by the relevant government agencies, provide finance to supplement the provision of tertiary education by the government and for matters incidental thereto and connected therewith.

Enacted by the Parliament of Kenya as follows: -

PART I – PRELIMINARY

1. Short title

This Bill may be cited as the Tertiary Education Placement and Funding Bill, 2023.

2. Interpretation

In this Bill, unless the context otherwise requires—

"Board" means the Tertiary Education Placement and Funding Board established by clause 3 of this Bill

"Eligible person" means any person, who being a Kenyan citizen, has attained minimum entry requirements and has been admitted to a recognized tertiary institution of education and learning;

"Fund" means the Tertiary Education Fund established by clause 16 of this Bill

"Tertiary Education" means any course of education offered by an institution above the standard of Kenya Certificate of Secondary Education or any equivalent certificate approved by the Board;

"Loanee" means any person granted an education loan under the Tertiary Education Placement and Funding Board Bill 2023 or any person granted an education loan by the Ministry of Education or any person granted an education loan by the Board under this Bill.

"Director General" means the Director General of the Board appointed under clause 9 of this Bill

"Student" means any Kenyan citizen admitted and pursuing tertiary education with financial assistance from the Board.

Commission; means Commission for University Education;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters related to University education;

PART II – ESTABLISHMENT AND FUNCTIONS OF THE BOARD

3. Establishment of the Board

(1) There is hereby established a Board to be known as the Tertiary Education Placement and Funding Board which shall be a body corporate with perpetual succession and a common seal.

(2) The Board shall be capable in its corporate name of -

    (a) suing and being sued;

    (b) taking, purchasing or otherwise acquiring, holding, charging and/or disposing of movable and immovable property;

    (c) entering into contract;

    (d) borrowing and lending money;

    (e) doing or performing all such other things or Bills necessary for the proper performance of its functions under this Bill, and which may lawfully be done or performed by a body corporate.

(3) The Board is the successor to the Higher Education Loans Boards (Cap 213) now repealed, Universities Funding Board and the Kenya Universities and Colleges Central Placement Service (under Universities Act, No. 42 of 2012,), TVET Funding Board (under Technical and Vocational Education and Training Act No. 29 of 2013).

(4) Subject to this Bill, all rights, duties, obligations, assets and liabilities of the Higher Education Loans Boards (Cap 213) now repealed, Universities Funding Board and the Kenya Universities and Colleges Central Placement Service (under Universities Act, No. 42 of 2012,) and TVET Funding Board (under Technical and Vocational Education and Training Act No. 29 of 2013) existing at the commencement of this Bill shall be automatically and fully transferred to the Tertiary Education Funding Board and any reference to the Higher Education Loans Boards (Cap 213) now repealed, Universities Funding Board and the Kenya Universities and Colleges Central Placement Service (under Universities Act, No. 42 of 2012,) and TVET Funding Board (under Technical and Vocational Education and Training Act No. 29 of 2013) any contract or document executed prior to the commencement of this Bill, shall for all purposes be deemed to be a reference to the Tertiary Education Placement and Funding Board established under this clause.

4. Functions of the Board

(1) The functions of the Board shall be —

    (a) to manage the Fund established under clause 16 and for that purpose to -

        (i) advise the Cabinet Secretary on matters of education funding and related policy issues;

        (ii) to formulate sound policies for regulating the management of the Fund;

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(iii) to set the criteria and conditions governing the granting of loans, including the rate of interest and recovery of loans;
(iv) to enter into contracts with financial institutions for the purpose of loans disbursement and recovery;
(v) to grant loans out of the Fund either with or without security, as the Board may deem fit, to any eligible person to enable him, or assist any student, to meet the cost of tertiary education;
(vi) to determine the maximum number of eligible persons or students to be granted loans in any one particular year;
(vii) to receive and consider all loan applications from eligible persons or students wishing to be considered for the award of tertiary loans, and to approve, withhold or reject such requests in accordance with the provisions of this Bill;
(viii) to establish and award bursaries and scholarships which it may consider necessary for the promotion of the objectives and functions of the Board;
(ix) to take out insurance cover for risky loans such as death, incapacity or inability to pay, as the Board deems fit;

(b) to solicit for funds and other assistance to promote the functions of the Board;

(c) to receive any gifts, donations, grants or endowments made to the Board, and to make legitimate disbursements therefrom;

(d) to establish and maintain links with other persons, bodies or organizations within or outside Kenya, as the Board may consider appropriate for the furtherance of the purposes for which the Board is established;

(e) to invest any surplus funds not currently required for the purpose of the Board in any investment authorized by law for the investment of trust funds with power from time to time to vary or realize those investments;

(f) with the consent of the Cabinet Secretary, to set up and expend such other funds as may from time to time be required;

(g) to borrow such monies from such sources and in such amounts as may be approved by the Cabinet Secretary with the concurrence of the Treasury and to secure such loans in such manner as they deem fit;

(h) to take out insurance cover for risky loans such as death, incapacity or inability to pay, as the Board deems fit;

(i) in consultation with the stakeholders, propose and establish for approval by the Cabinet Secretary and the Auditor-General the maximum differentiated unit cost for the programmes offered by tertiary institutions;

(j) establish the minimum discipline differentiated remuneration for academic staff of tertiary institutions, which shall be fair and globally competitive, and advise the Government accordingly;

(k) to place government sponsored students in public Universities, colleges and TVET institutions;

(l)   to perform and exercise all other functions and powers conferred on the Board by this Bill.

5. Conduct of Business and Affairs of the Board

The conduct and regulation of business and affairs of the Board shall be as provided in the First Schedule.

6. Constitution of the Board

(1)   The Board shall consist of—

(a) Chairperson appointed by the President;

(b) Principal Secretary responsible for Higher Education and Research, or a representative;

(c) Principal Secretary responsible for Technical and Vocational Education and Training or a representative;

(d)   the Principal Secretary in the Ministry responsible for finance, or a representative;

(e) a representative of the Vice-Chancellors or Principals of the Public Universities;

(f) a representative of the Vice-Chancellors or Principals of the Private Universities;

(g) the Secretary of the Commission;

(h) the chief executive of the TVETA;

(i)   two persons who have proven knowledge and experience in Financial matters one of whom shall represent colleges not within ministry of education and from different gender;

(j)   the Director General who shall be an *ex officio.*

(2)   The members of the Board referred to in paragraphs (e) (f) and (i) shall be appointed by the Cabinet Secretary for a period of five years or for the period of the representation.

7. Qualification for Appointment as Member of Board

(1)   A person shall be qualified for appointment as a chairperson or member of the Board if the person -

(a) in the case of the chairperson, holds a master's degree from a University recognized in Kenya and has at least fifteen years' experience in matters relating to finance management in education;

(b) in case of a member of the Board referred to under clause4(1) (e), (f) and (i) holds a master's degree from a University recognized in Kenya and has at least ten years' experience in matters relating management;

(c) in addition to the qualifications specified under subclause (1), a member of the Board shall be a person of high moral caliber and integrity in accordance with Chapter Six of the Constitution and capable of contributing to tertiary education.

(2) The chairperson of the Board shall be appointed from persons who, in addition to the competencies specified in subclause (1), have ten years' experience in leadership and management of public or private institutions.

8. Vacancy of Office

(1) Subject to the provisions of this Bill, the office of a member of the Board shall become vacant if the member –

(a) resigns by notice in writing addressed to the Cabinet Secretary;

(b) is absent from three consecutive meetings of the Board without the permission of the Chairperson, or, in the case of the Chairperson, the permission of the Cabinet Secretary;

(c) is unable to perform the functions of office by reason of prolonged physical or mental incapacity;

(d) is adjudged bankrupt by a court of competent jurisdiction or enters into a composition or scheme of arrangement for the benefit of creditors;

(e) is guilty of gross misconduct;

(f) fails to meet the requirements of Chapter Six of the Constitution; or

(g) is convicted of an offence and sentenced to imprisonment for a period of six months or more.

(2) Where the office of a member of the Board under clause 4(1) (e), (f) and (i) becomes vacant, the Cabinet Secretary may, subject to the provisions of this Bill, appoint another person to fill the vacancy for the remainder of the term of such member.

(3) Notwithstanding the generality of the foregoing, any member of the Board suspected of having contravened Chapters 6 or 13 of the Constitution shall vacate office to pave way for investigations.

(4) Where a person who has vacated office under sub-clause (3) is not found culpable of any unlawful Bill by a competent legal authority, the person shall be reinstated to the position of a member.

9. Director General

(1) There shall be a Director General to the Board who shall be appointed by the Board and who shall be the chief executive of the Board, and shall be responsible for the management of the day-to-day activities of the Board.

(2) The Director General shall hold office for five years and shall be eligible for reappointment once subject to performance evaluated by the Board.

(3) The Director General shall be the head of the Secretariat and shall be responsible to the Board in ensuring that the Secretariat satisfactorily carries out duties and performs functions assigned to it by the Board.

(4)   The Director General shall be an *ex officio* member of the Board and shall have no right to vote at the meetings of the Board.

10. Committees of the Board

(I)   The Board may set up such committees as may be appropriate to perform such functions and discharge such responsibilities as it may determine, provided that the Board shall not delegate its principal mandate to the committees.

(2)   Each committee shall elect its own chairperson.

(3)   The Committee shall cause the minutes of all proceedings of its meetings to be recorded and kept, and shall be signed by the chairperson or the person presiding at the meeting.

(4)   Subject to this Bill, the committees shall regulate their own proceedings.

11. Training levies

The Cabinet Secretary may make a training levy order for the purpose of giving effect to proposals submitted by the Board and approved by him, and the order may provide for the amendment of a previous training levy order

12. Delegation of Powers

(1)   The Board may delegate to any of its committees such of its powers and duties as it may deem necessary.

(2)   Except with the written authority of the Board, no act of a committee shall be binding on the Board until it has been approved by the Board.

(3)   Any person aggrieved by a decision of a committee, may appeal to the Board within sixty days from the date of such decision and in every such appeal, the decision of the Board shall be final and not subject to a further appeal in any court.

13. Deputy Director General

(1)   The Board shall appoint one or more Deputy Director General who shall, under the general authority of the Director General, exercise such powers and perform such duties as may be assigned by the Director General.

(2)   A Deputy Director General shall hold office on such terms and conditions as may be specified in the instrument of appointment.

14. Corporation Secretary

There shall be a Corporation Secretary of the Board who shall hold office on such terms and conditions as may be specified in the instrument of appointment.

15. Officers and Agents of the Board

(1)   The Board may employ such other officers and staff as it may deem necessary for the performance of its functions under this Bill and any person employed under this clause shall be deemed to be a public officer within the meaning of the Constitution.

(2)   All appointments under this clause shall consider gender equity, ethnic and regional balance in accordance with the Constitution.

(3)   The Board may by a resolution either generally or in any particular case delegate to any member, officer, employee or agent of the Board the exercise of any of the powers or the performance of any of the functions or duties of the Board as authorized by this Bill.

PART III – PLACEMENT

16. (1) The functions of the Board in placement shall be to –

    (a)   co-ordinate the placement of the government sponsored students to public Universities and colleges and public TVET institutions;

    (b)   disseminate information on available programmes, their costs, and the areas of study prioritized by the Government;

    (c)   collect and retain data relating to public University and college and public TVET institutions placement;

    (d)   advise the Government on matters relating to public University and college and public TVET institutions student placement;

    (e)   develop career guidance programmes for the benefit of students; and

    (f)   perform any other function assigned to it under this Bill.

(2)   The Board shall in the performance of these functions promote equity and access to University and college education, by among other things, developing criteria for affirmative action for the marginalized, the minorities and persons with disabilities.

(3)   The Board shall establish criteria to enable students access the courses for which they applied taking into account the students' qualifications and listed priorities.

PART IV - ESTABLISHMENT AND ADMINISTRATION OF THE FUND

17. Establishment of the Fund

(1)   There is hereby established a Fund to be known as the Tertiary Education Fund which shall be managed and administered by the Board.

(2)   The objects of the Fund shall be:

    (i)   to provide funds to be used for providing loans and grants to assist Kenyan students to pursue tertiary education at such institutions within and outside Kenya, recognized by the relevant government agencies.

    (ii)   To provide finance to supplement the provision of tertiary education by the government.

(3)   For the purpose of attaining these objects, the monies from the Fund shall be expended as follows:

    (a)   to provide financial support to tertiary institutions, through the Ministry of

Education, for the development and maintenance of essential academic facilities and infrastructure in public educational institutions;

(b) to provide loans to students to pursue tertiary education at such institutions within and outside Kenya, recognized by the relevant government agencies;

(c) to provide grants to tertiary institutions:

    (i) to train brilliant and needy students;

    (ii) to undertake research and other academic programmes of relevance to national development; and

(d) to provide monies to support such other educational activities and programmes for the promotion of tertiary education as the Cabinet Secretary in consultation with the Board may determine.

18. Revenue and Expenditure of the Fund

(1) There shall be credited to the Fund –

    (a) sums of money which may from time to time be voted by Parliament for that purpose;

    (b) sums which represent the repayment of the capital and interest of any loan granted by the Board or any other loan made prior to the enactment of this Bill by the Cabinet Secretary responsible for Education;

    (c) income from any investment made by the Board;

    (d) any sums of money borrowed by the Board with the consent of the Cabinet Secretary;

    (e) any gifts, donations, grants and endowments made to the Fund.

    (f) training levies

    (g) other monies or property that may in any manner become lawfully payable and vested in the Board for the Fund.

(2) There shall be paid out of the Fund any expenditure approved by the Board and incurred in connection with the administration of the Fund.

19. Administration of the Fund

The Cabinet Secretary shall by Regulation prescribe the administration of the Fund in accordance with this Bill and other relevant laws.

PART V – OFFICERS OF THE BOARD

20. Officers of the Board

The Board shall employ such officers, inspectors and servants as shall be necessary for the performance of their functions under this Bill and shall pay out of the Fund to such officers and servants such salaries and allowances as the Board may from time to time determine.

21. Inspectors of the Board

(1) An inspector of the Board shall be appointed for the purposes of ascertaining whether the provisions of this Bill have been complied with within any premises or place liable to inspection under this clause have power to enter such premises or place at all reasonable times and to examine every person whom he finds therein.

(2) The occupier of any premises or place liable to inspection under this clause and any person who is or has been employing any loanee, and the servants and agents of such occupier or other person, and any employer shall furnish to the inspector all such information and produce for inspection all such documents as the inspector may reasonably require for the purposes of ascertaining whether loan repayments are or have been made or have been duly paid by or in respect of any loanee employed in such premises.

(3) Any person who -

   (a) willfully delays or obstructs any inspector in the exercise of any power under this clause; or

   (b) refuses or neglects to answer any question or to furnish any information or to produce any document when required so to do under this clause, shall be guilty of an offence:

   Provided that no person shall be required under this clause to answer any question or to give any information which tends to incriminate him.

(4) Every inspector shall, upon seeking admission to any premises for the purposes of inspection, produce his letter of authorization issued by the Board.

22. Powers of Inspector to Prosecute

An inspector appointed under clause 19 or any other person authorized by the Board in writing, may, subject to the general or special directions of the Attorney-General, prosecute in any court for all offences under this Bill and for that purpose have all the powers conferred on a public prosecutor by the Criminal Procedure Code (Cap. 75).

PART VI – LEGAL PROCEEDINGS

23. General Provisions as to Offences

Proceedings for an offence under this Bill may, notwithstanding anything in any law to the contrary, be commenced at any time within the period of twelve months from the date on which evidence sufficient in the opinion of the Board to justify a prosecution for the offence comes to the knowledge of the Board.

24. Court Order on Repayments

(1) The court before whom any person is convicted of an offence under this Bill, shall without prejudice to any civil remedy, order such person to pay to the Board, as the case may be, the amount of any outstanding loan repayments and interest

or any other sum, together with any penalty thereon, found to be due from such person to the Board, and any sum so ordered shall be recoverable as a fine and paid to the Board.

(2) All sums due to the Board shall be recoverable as debts due to the Board and without prejudice to any other remedy may be recovered by the Board summarily as a civil debt.

(3) All criminal and civil proceedings under this Bill may, without prejudice to any other in that behalf, be instituted by any inspector or other officer of the Board and where the proceedings are instituted or brought in a court of law, any such inspector or other officer shall prosecute or conduct the proceedings.

(4) All sums recovered by legal proceedings in respect of sums which should have been but were not paid to the Board shall be so paid to the Board.

25. Evidence

In any proceedings under this Bill, a copy of any entry in the accounts of or any extract from the records or register of the Board shall, if stated to be a true copy by a certificate purporting to be signed by the Secretary or a person authorised on his behalf by him, be received in evidence as *prima facie* evidence of the truth of the contents thereof.

PART VII – FINANCIAL PROVISIONS

26. Financial Year of the Board

The financial year of the Board shall be the period of twelve months commencing on the 1st of July and ending on the 30th day of June of the following year.

27. Annual Estimates

(1) The Board shall submit to the Cabinet Secretary an estimate of its income and expenditure during the succeeding financial year six months before the commencement of the financial year.

(2) The Cabinet Secretary shall communicate to the Board his approval of the annual estimates at least one calendar month before the commencement of the financial year.

(3) The annual estimates shall make provisions for all the estimates of expenditure of the Board for the financial year and shall provide for -

(a) the cost of administration of the Board including payment of salaries, allowances, pensions, gratuities and other charges whatsoever payable to the staff and members of the Board;

(b) the payment or reimbursement to the members of the Board of monies in respect of expenses incurred during the attendance of the meetings of the Board;

(c) the development and maintenance of any property vested in the Board.

(4) Except with the approval of the Cabinet Secretary, no expenditure shall be incurred for the purposes of the Board except in accordance with the annual estimates approved under sub-clause (2).

28. Books of Accounts and Audits

(1) The Board shall cause to be kept all proper books and records of accounts of the income, expenditure, assets and liabilities of the Fund.

(2) The Board shall, not more than four months or such longer period as the National Assembly may by resolution appoint after the end of each financial year, cause to be prepared and submitted to the Auditor-General -

  (a) a balance sheet showing in detail the assets and liabilities of the Board at the end of the financial year;

  (b) a statement of financial activities, income and expenditure during the financial year; and

  (c) other statements of accounts as may be necessary to fully disclose the undertaking, assets, liabilities and discharge of the functions of the Board.

(3) The accounts of the Board shall be audited by the Auditor-General or an auditor appointed by the Board with the approval of the Auditor-General.

(4) The employment of an auditor shall not be terminated by the Board without the approval of the Auditor-General.

(5) The Auditor-General may give any general or special directions to an auditor appointed under sub-clause (3) and such auditor shall comply with those directions.

(6) An auditor appointed under sub-clause (3) shall report directly to the Auditor-General on any matter relating to the directions given under sub-clause (5).

(7) Within a period of four months after the end of each financial year, the auditor shall report on the examination and audit of the accounts of the Board to the Cabinet Secretary, where the auditor has been appointed under sub-clause (3). He shall also transmit a copy of the report and accounts to the Auditor-General.

(8) Nothing in this Bill shall be construed as prohibiting the Auditor-General from carrying out the inspection of the Board's accounts or records if it appears to him desirable.

(9) Notwithstanding anything in this Bill, the Auditor-General may transmit to the Cabinet Secretary a special report on any matter incidental to his powers under this Bill, and the Public Audit Act No. 12 of 2003, shall mutatis mutandis apply to any report made under this clause.

(10) In the exercise of his powers and duties under this Bill, the Auditor-General and any auditor appointed under this clause shall have the same powers as those conferred on the Controller and Auditor-General by Articles 228 and 229 of the Constitution and the Public Audit Act No. 12 of 2003.

(11) The Cabinet Secretary shall lay the auditor's report submitted to him under sub-clause (7) before the National Assembly as soon as practicable, in accordance with provisions of the Government Financial Management Act No. 5 of 2004, and if he fails or neglects to comply, the provisions of sub-clause (6) of that clause shall apply.

(12) The fee for any auditor shall be fixed and paid by the Board.

29. Annual Report of the Board

(1)   The Board shall submit to the Cabinet Secretary as soon as possible and in any event not more than six months after the end of each financial year a report dealing generally with the activities and operation of the Fund during the year to which the report relates and shall include:

   (a)   the audited accounts of the Fund and the Auditor-General's report on the accounts of the Fund; and

   (b)   such other information as the Board may consider necessary.

(2)   The Cabinet Secretary shall within two months after the receipt of the annual report submit the report to Parliament with such statement as he considers necessary.

PART VIII – MISCELLANEOUS PROVISIONS

30. Secrecy, Offences and Penalties

(1)   Any person having an official duty or being employed in, or in connection with, the administration of this Bill shall regard and deal with all documents, information, returns and forms relating to applications for loans or to the granting of loans under this Bill as secret and confidential.

(2)   Any person having possession of, or control over, or access to, any documents, information, returns or forms relating to a matter referred to in subclause (1) who communicates anything contained therein –

   (a)   to any person other than a person to whom he is authorized by the Board to communicate it; or

   (b)   otherwise than for the purposes of this Bill, shall be guilty of an offence.

(3)   Any person guilty of an offence under this Bill shall, where no other penalty is prescribed, be liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding three years.

31. Protection from Personal Liability

No matter or thing done by the Chairman or any member of the Board or any officer, employee or agent of the Board shall, if the matter or thing is done *bona fide* for the purpose of executing any provision of this Bill, render the chairman, member, officer, employee or agent or any person acting on their directions, personally liable to any action, claim or demand whatsoever.

32. Liability of the Board for Damages

The provisions of this Bill shall not relieve the Board of the liability to pay compensation or damages to any person for any injury to him, his property or any of his interest caused by the exercise of any power conferred by this Bill or by the failure, whether wholly or partially of the exercise of such powers.

33. Powers of Cabinet Secretary to Exempt

The Cabinet Secretary may by notice in the *Gazette* exempt any class of persons from all or any of the provisions of this Bill, where in his opinion it is expedient in the public interest to do so.

34. Bill to Apply to Government Employees

(1) This Bill shall, subject to the provisions thereof relating to exempt persons, apply to persons in the service of the Government as it would apply if their employer were a private person or a State corporation.

(2) All monies required to be paid under this Bill by the Government in respect of loan repayments in relation to persons in the service of the Government shall be charged on and paid out of the Consolidated Fund without any further appropriations than in this Bill.

35. Regulations

The Cabinet Secretary may make regulations generally for the better carrying out the provisions of this Bill, and without prejudice to the foregoing, the Cabinet Secretary may make regulations in respect of the following -

(a) the receipt, processing and approval of applications for loans and the granting of loans to students;

(b) the preparation and maintenance of loanees' records;

(c) the withdrawal, recovery and cancellation of loans already granted;

(d) the waiver or exemption from repayment of loans;

(e) persons who being loanees are or have been living outside Kenya;

(f) the terms and conditions of service for the Board's staff;

(g) the setting-up of procedures for dealing with loan defaulters; and

(h) the grant of bursaries and scholarships.

PART IX – TRANSITIONAL PROVISIONS

36. Transfer of Property, Assets and Liabilities

(1) All movable and immovable property and assets which immediately before the commencement of this Bill were vested in or possessed by the Higher Education Loans Board under the Higher Education Loans Boards Act (Cap 213) now

repealed, Universities Funding Board and the Kenya Universities and Colleges Central Placement Service (under Universities Act, No. 42 of 2012,) and TVET Funding Board (under Technical and Vocational Education and Training Act No. 29 of 2013) shall by virtue of this clause vest in the Tertiary Education Funding Board without further conveyance, transfer or assignment.

(2) All rights, obligations and liabilities which immediately before the commencement of this Bill were vested in or imposed on the Higher Education Loans Board under the Higher Education Loans Boards Act (Cap 213) now repealed, Universities Funding Board and the Kenya Universities and Colleges Central Placement Service (under Universities Act, No. 42 of 2012,) and TVET Funding Board (under Technical and Vocational Education and Training Act No. 29 of 2013) are deemed to be the rights, obligations and liabilities of the Board.

(3) All references to the Higher Education Loans Board under the Higher Education Loans Boards Act (Cap 213) now repealed, Universities Funding Board and the Kenya Universities and Colleges Central Placement Service (under Universities Act, No. 42 of 2012,) and TVET Funding Board (under Technical and Vocational Education and Training Act No. 29 of 2013) in any agreement or instrument relating to any property, assets, rights, obligations or liabilities transferred under subclauses (1) and (2) and subsisting immediately before the commencement of this Bill shall, unless the context otherwise requires be read as references to the Board.

37. Repeal of Cap 213A, Part VII & VIII of The Universities Act No. 42 of 2012, Part IX of TVET Act, Section 5B of the Industrial Training Act, Cap 237 and General Savings

(1) The Higher Education Loans Boards Act (Cap 213) referred to as the former Bill is hereby repealed.

(2) Notwithstanding the repeal of the former Act, all Acts, directions, orders, appointments, requirements, authorizations, other things given, taken or done under, and all funds, assets and other properties acquired in virtue of that Act, shall, so far as not inconsistent with this Bill be deemed to have been given, taken, done or acquired under this Bill.

(3) All regulations made under the former Act and in force immediately prior to the commencement of this Bill shall continue to be in force but may be amended or revoked by regulations made under this Act.

FIRST SCHEDULE

[Clause 5]

CONDUCT OF THE BUSINESS AND AFFAIRS OF THE BOARD

1. The Board shall meet as often as necessary for the transaction of business, but not more than three months shall elapse between the date of one meeting and that of the next meeting.

2. The Chairperson may at any time, and shall upon written request by a majority of the members, call a special meeting of the Board.

3. The Chairperson shall preside at every meeting of the Board at which he/she is present, but in the absence of the Chairperson the members present may elect one from among their number to preside.

4. The quorum for a meeting of the Board shall be five members.

5. Unless a unanimous decision is reached, a decision on any matter before the Board shall by a majority of the members present, and in the case of an equality of votes the chairperson or person presiding shall have a casting vote.

6. A member who has a direct or indirect interest in a matter being considered or to be considered by the Board shall, as soon as the relevant facts regarding the matter come to knowledge of the member, disclose the nature of such interest, and shall not be present during any deliberations on the matter.

7. The Board shall cause the minutes of all proceedings of its meetings to be recorded and kept, and shall be signed by the chairperson or the person presiding at the meeting.

8. Save as provided in this Schedule, the Board may regulate its own procedure.