THE LEGAL FRAMEWORK FOR KENYA’S EDUCATION SYSTEM

GEOFFREY MBUGUA WANGO

2006

International Development targeted Universal Primary Education (UPE) by 2005 and gender equity in the education for all (EFA) goals by 2015. Relevant and quality educational standards are a priority. To achieve these goals, present educational policies must be continuously assessed and reviewed with a view to meeting current and emerging needs through a careful attention of trends in education. Based on a chronological perspective of the key policy making process in Kenya, this book attempts to map the future of education policy and policymaking in Kenya. It traces the origins, purposes and effects of various education reforms and looks behind the scenes at the priorities and objectives of education at each successive stage. The review provides fascinating insight into the way in which policy in the developing countries and particularly former colonies has evolved over the years. In that way, the contemporary education is related to the ideals of society as projected by the modern age. The book will be of interest to educationalists, policy analysts, sociologists and political scientists in that through documentation and analysis, it builds on would be better foundation for going forward.

The book is rooted in education policy, history and sociology of education especially in the developing countries and former colonies. Information on education especially on pre-independence Kenya and the early independence years is scattered and this made the work unusually difficult in seeking for information and in an attempt to synthesize data. This text describes and analysis changes in the processes of education policy making in Kenya in the period 1900 - 2005. In particular, it traces the origins, construction and implementation of various aspects in the education system. Wherever possible, this extends to comments on likely and actual consequences of the policies. The rationale underlying them is also attempted. The book is therefore an outstanding contribution to scholarly research on the education policy framework in Kenya. It is intended to help education officers and professional trainers and trainees, researchers and students to grasp the legal aspects that have formed the basis for educational policies in Kenya. It is well written, comprehensive and fairly detached though critical in its judgments. In my opinion, this creates unique learning
opportunities that can help to blend theory and practice with an emphasis on providing education services in a variety of settings.

In writing this book, I am very aware of the complexity of the task of maintaining coherence in such a period of time (1900 – 2005) and with such social political turbulence. It must therefore be emphasized that the period covered does not suggest a continuum. That is, education policy making is not necessarily developmental, and certainly not in the context of developing countries. There are discontinuities, priorities and areas of emphasis change while often at times there are obvious omissions. Thus the period is riddled with addition and well as omissions, exceptions and inclusions and compromises and discontinuities. The book is therefore divided into four parts: introduction, pre-independence, independence and a commentary at the end. The deployment of these different parts means that they can be read as separate but interrelated parts chiefly through the chronological reflective approach adopted in the book. The reader might want to ask the question where I stand in all this. The answer is that in my view, education development and reform need to be a well thought out process however fast (or even slow for that matter) such decisions require to be made. Certainly, the government has an obligation to respond directly and immediately with sensitivity to education needs. But nonetheless, education is not devoid of economic, social cultural and political influence. Education is also infused with moral values. Overall, education ideologies tend to be constantly evolving and changes in education polices and approaches are often inevitable. This book therefore deserves to be read by professionals especially educationalists, teachers, politicians and church sponsors. They will find the records and attitudes of their predecessors and build on dismal revelations of the handling of education affairs.

I wish to express my sincere appreciation and gratitude to the many officers in the Ministry of Education, and other people who contributed in the writing of this book. Their insights, comments and contributions were an invaluable inspiration to the quality of the material in this book though the errors are all mine. I am grateful to the Commonwealth Scholarship Commission for an opportunity to study for a Doctor of Philosophy degree at the University of Birmingham in the United Kingdom where I gathered immense knowledge on a range of aspects including counselling, education, policy and ICT.
# TABLE OF CONTENTS

Preface ii  
List of Tables vi  
List of Figures vi  
Acronyms and Abbreviations vii

## Introduction
Background to Education in Kenya 1  
Purpose of the Book 4  
Methodology 4  
The Historical Approach 5  
Organization of the Book 6

### Part One Pre - Independent Kenya
1.1. Introduction 7  
1.2. Education in Pre - Independence Kenya 7  
1.3. Critical Review 21  
1.4. Conclusion 25

### Part Two Present Education Framework
2.1. Introduction 27  
2.2. Framework of Education in Kenya 28  
2.3. Critical Review 53  
2.4. Conclusion 57

### Part Three Recommendations, Conclusions and Final Reflections
3.1. Introduction 59  
3.2. Emerging Issues 59  
3.3. The Future Directions of Education in Kenya 62  
3.4. Recommendations 69  
3.5. Way Forward 71
### Part Four  Education (Kenya) Act

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.1</td>
<td>Preamble</td>
<td>73</td>
</tr>
<tr>
<td>4.2</td>
<td>Education Administration</td>
<td>73</td>
</tr>
<tr>
<td>4.3</td>
<td>Legislative and Administrative Framework</td>
<td>74</td>
</tr>
<tr>
<td>4.4</td>
<td>Financing of Education</td>
<td>76</td>
</tr>
<tr>
<td>4.5</td>
<td>Management of Education</td>
<td>77</td>
</tr>
<tr>
<td>4.6</td>
<td>Compulsory Education</td>
<td>77</td>
</tr>
<tr>
<td>4.7</td>
<td>Principles of Education</td>
<td>78</td>
</tr>
<tr>
<td>4.8</td>
<td>Education (Kenya) Act: Arrangement of Parts</td>
<td>81</td>
</tr>
<tr>
<td>4.9</td>
<td>Parts of the Education Act Missing in Present Education Act</td>
<td>85</td>
</tr>
</tbody>
</table>

### References

References 105 - 109

### Appendices

Appendices 110 - 114

<table>
<thead>
<tr>
<th>Appendix</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appendix 1</td>
<td>Policy and Statutory Education Documents</td>
<td>110</td>
</tr>
<tr>
<td>Appendix ii</td>
<td>Subsidiary Legislation</td>
<td>112</td>
</tr>
<tr>
<td>Appendix iii</td>
<td>Acts of Parliament some Provisions of which affect Education</td>
<td>114</td>
</tr>
</tbody>
</table>
LIST OF TABLES

Table 1.1. Growth in Education, 1945 - 1951  
Table 1.2. Primary School Enrolment, 1963  
Table 1.3. Secondary School Enrolment, 1963  
Table 2.1. Expansion in Secondary Education, 1965 – 1970

LIST OF FIGURES

Figure 3.1. Proposed Ministry of Education Structure - Headquarters
Figure 3.2. Proposed Ministry of Education Structure - Province
Figure 3.3. Proposed Ministry of Education Structure - District
Figure 3.4. Levels of Management in Education
Figure 3.5. Membership of the Board of Governors
ACRONYMS AND ABBREVIATIONS

4+4+4 4 years primary; 4 years intermediate; and, 4 years secondary
7+6+2+3 7 years of Primary Education, 4 years of Secondary Education, 2 years
A levels and 3 years University Education.
8+4+4 8 year of primary education, 4 years of Secondary Education and 4
years of University Education
AIDS Acquired Immune Deficiency Syndrome
ASAL Arid and Semi Arid Lands
BOG Board of Governors
CHE Commission for Higher Education
DEB District Education Boards
DEOs District Education Officers
ECE Early Childhood Education
EFA Education for All
FE Further Education
FPE Free Primary Education
HEB Higher Education Board
HIV Human Immune Virus
HNC Higher National Certificate
HND Higher National Diploma
ICT Information Communication and Technology
JKF Jomo Kenyatta Foundation
KANU Kenya African National Union
KESI Kenya Education Staff Institute
KIE Kenya Institute of Education
KISE Kenya Institute of Special Education
KLB Kenya Literature Bureau
KNEC Kenya National Examinations Council
KNUT Kenya National Union of Teachers
KSSHA Kenya Secondary Schools Head Association
KSTC Kenya Science Teachers College
KSHS Kenya Shillings
KTTC  Kenya Technical Teachers College
LCs   Local Authorities
MOE   Ministry of Education
MOEST  Ministry of Education, Science and Technology
MPET  Master Plan on Education and Training
NARC  National Rainbow Coalition
NDP   National Development Plans
PgDE  Post Graduate Diploma in Education
PGDE  Post Graduate Degree in Education
PDE   Provincial Director of Education
PTA   Parent Teacher Association
QASO  Quality Assurance and Standards Officers
QES   Quality of Education Standards
RC    Research Council
SAGAs Semi-Autonomous Government Agencies
SAPs  Structural Adjustment Programmes
SMC   School Management Committee
SEN   Special Education Needs
TIQET Totally Integrated Quality Education and Training
TIVET Technical, Industrial, Vocational and Entrepreneurship Training
TQ    Teacher Qualification
TSC   Teachers Service Commission
TTCs  Teacher Training Colleges
UPE   Universal Primary Education
INTRODUCTION

Background to Education in Kenya

Kenya is situated on the Equator on the East Coast of Africa with the equator nearly dividing it into a half. It is named after a mountain of the same name, Mt. Kenya. The Kikuyu people who lived around present day Mt. Kenya referred to it as ‘Kirinyaga’ meaning ‘mountain of whiteness’ because of its snow capped peak. The mountain that is the main landmark because of its snow-capped peak on the equator became synonymous with the territory the British later claimed as their colony. Nairobi is the capital city and a commercial centre. Kenya has a surface area of 580,000 km² and an estimated population of 32 million people in 2004. Its most picturesque geographical feature is the Great Rift Valley, which runs through the country from Ethiopia in the North to Tanzania in the south. It is divided into eight administrative provinces and 72 districts (in 2004). Kenya is a multi-lingual society comprising over 42 ethnic communities each with their own vernacular language. About 3% of the population comprises of descendants of European, Asian and Arab origin. A large part of the population lives in the fertile highlands and plateau. English is the official language and the medium of instruction from class 4 in primary school while Kiswahili is the lingua franca. Both languages are compulsory subjects in primary and secondary schools. The language of the catchment area or vernacular is taught in primary schools from class I – 3 as a strategy for enhancing the development of local languages. A majority of the people are Christians while about 7% of the population is Muslim. Small proportions of the populations practice other indigenous religions.

The first people to settle in Kenya were indigenous African communities who migrated from various parts of the continent. Other visitors included traders, explorers and tourists who came in from various parts of the world such as Portugal, Arabia, Roman empire, India and Greece. They visited mainly the East African Coast from as early as the first century A.D. While the majority of the visitors went back to their countries, some settled, and intermarried with the local populations giving rise to a new Swahili culture along the Coast. Arab traders settled along the Coastal strip in the 10th Century. The first major European presence in East Africa started with the arrival of the Portuguese in 1498 when Vasco Da Gama’s arrived at the coast on the way to the East Indies. The first German Christian Missionaries in the country arrived in 1844. In 1888, Kenya became a British Sphere of Influence administered
by the British East Africa Company. In 1920, it became a British Crown Colony. The missionaries introduced formal Western education where learning and teaching activities are formalized in a classroom situation in the 19th Century. Two Christian Missionary Society (CMS) missionaries, Ludwig Kraft and John Rebmann, established the first Mission school in 1846 at Rabai near Mombasa at the Coast. Missionary education was linked to Christianity and aimed to produce African priests to spread the world of God and western civilization. The schools generally taught pupils the rudiments of reading, writing and arithmetic (what came to be known as the three R’s) and prepared them for Christian baptism.

Kenya had traditional African education that existed even before the colonization by the Europeans. It aimed at training individuals to fit into the society as useful and productive members of that society (Eshiwani, 1993; Kenyatta, 1961). It provided skills, knowledge and values relevant to society and socialized the individuals to participate adequately and positively in the development of society. The age group defined the system of education for that status in life while the homestead was the school (Kenyatta, 1961). The system of education was concerned with the economies, religion and political aspects of life. It consisted of the language, oral literature, customs and traditions of the family and the people. Education was lifelong and began at birth and ended in death (Kenyatta, 1961). The establishment of the formal schooling and a strong western tradition undermined most of the traditional practices (Sifuna, 1990). This meant that the school had to take in again most of the traditional roles and reform to adopt the new status (Sifuna, 1990). Missionaries controlled and dominated the provision and administration of education up until 1911 when the colonial government stepped in. On 12th December 1963, Kenya became independent and in June 1964 it became a republic. As a sovereign country, education was placed in the hands of the government.

It must be emphasized that many local people did not see the value of acquiring western education at the initial stages and their response to the education and school system was poor. Pupils who attended mission schools demanded to be paid or were lured by gifts such as sugar and salt to take home. Parents were persuaded to take their children to school. At an early age, education was associated and has been with three factors that have influenced schooling and education in Kenya up to this day:

- That education is free and provided by the government;
That education has direct financial benefits accruing directly from that education; and,

The role of stakeholders in education especially the missionaries, parents and the local community was intricately associated with that education.

With the construction of the Kenya-Uganda railway that started in Mombasa in 1895, the interior was opened and missionaries quickly opened up stations in the interior when the railway was completed from Mombasa to Kisumu in 1902. The main purpose was to spread Christianity rather than introduce schools and therefore, schools and the curriculum were seen as a function of the former. There were no teacher training colleges and teachers as pupil-teachers learnt on the job. It was only later that the government granted money to schools to start training and formal teacher training did not begin until 1925. The government started inspecting schools to examine how money given in form of grants in aid to schools was used and during such inspections, they also examined the teachers in the subjects and practical teaching. Schools would then be awarded certificates for providing successful pupil teachers. These teachers were then admitted to Teacher Training Centres or awarded a third class teacher’s certificate.

Kenya has experienced a rapid development and expansion of education and training since independence in 1963. This growth is attributed to several factors such as:

- The peace and stability in the country;
- The increasing demand for more educational opportunities with a fast growing population;
- The government continued commitment and spending on education to meet the social and economic needs; and,
- Several educational institutions set up by communities, parents, religious and private organizations.

Through education, training and research, it is hoped that the country can meet the many challenges in the social, political and economic development, industrialize and utilize modern technology to enhance the quality of life for all Kenyans.

Many factors historical and cultural, geographic and social-economic have therefore influenced the development of education in Kenya from about 1900 to 2000 and to the present. Commitment to education has been manifested at various stages but the priorities
have often differed. Among the highest priorities in the 21st century is to improve access to basic education in pursuit of universal primary education (UPE) and the Education for All (EFA) initiatives. This book briefly looks at the way education goals and policies have evolved into the present education system.

**Purpose of the Book**

This book has been prepared to provide a critical overview of the legal educational policy framework in Kenya. The purpose of the book is to investigate and answer four specific questions in order to explain the principles or framework of the legal education framework in Kenya. These are:

- What are the key issues that have been considered to be central to education at various stages?
- What are the relationships between the various parts: Pre-Colonial; Colonial; Independence (Post Colonial) and at the turn of the millennium (way forward)?
- What are the links and what principles guide this education?
- How can this framework and other sources of information be incorporated within it best be used?

**Methodology**

This book is basically a review of the education trends and issues that have influenced the educational development and policy in Kenya from independence and thereafter to the present. The first step in the preparation of this document involved a presentation of papers on the legal framework for education in Kenya in training seminars for education managers and administrators. There were very good books such as Bogonko (1992), Eshiwani (1993), Otiende, Wamahi and Karugu (1992) and Sifuna (1980, 1990) that have very critical information on education in Kenya. But there was a need to put the legal framework together so as to build a coherent whole to the present. That was when the first paper was prepared for KESI. A lot of discussion was held with colleagues in the Ministry and participants in KESI seminars on what was lacking in education and it was increasing evident that there was no glimpse of the issues in education. Even when I embarked on my Ph.D, I realized how scattered and uncoordinated information on education in Kenya was. There was need for a greater in-depth look at the existing documents and a more thorough content analysis including the need to actually raise issues without being overly critical. Data in this book was
The Legal Framework for Kenya’s Education System

therefore derived from several sources including statistics from the Ministry of Education; National Development Plans; Education Commissions Reports; Reports on working parties and task forces on education since independence; government Sessional Papers; and, able authors who have written extensively on education in Kenya prominent among them Bogonko (1992), Eshiwani (1993), Otiende, Wamahi and Karugu (1992) and Sifuna (1980; 1990).

The Historical Approach
One of the aims of this book is to analyse the progress that has been made in education in Kenya and the implementation of various strategies to enhance different educational ideals. The historical approach adopted in this book enables a review of past experiences, decisions made and the identification of present needs for educational reform. To a large extent, this enables a prediction of future trends in that it calls for a critical rather than merely a review of education. It must be emphasized that the rationale for a historical review shares some of the characteristics of both quantitative and qualitative approaches to research in that it seeks:

- Objectivity and the desire to minimise bias and distortion of facts and events;
- To describe and explain all aspects of education; and,
- It is chronological in approach to help present the progress that has been made in education and in the implementation (or lack of it) of various education policies and thus the framework for this approach.

There are several issues that arise directly or indirectly from the book and it is necessary to highlight them by listing what would be considered to be central to the overall policy framework. As a consequence, the following issues enumerated are perhaps best seen to provide a source of inspiration and discussion rather than definite statements:

- Major economic decisions regarding education;
- Basic education in Kenya;
- Quality, equity and relevant education; and,
- The management and administration of education.

These and others can be summed up in one question: what are the key issues in education in Kenya? This is because the enormous knowledge on educational policies and practices must
be translated and implemented in education. Important aspects at each stage include a brief description to highlight main issues and reflection. New ideas and concepts will emerge and these will affect the perceptions of education and social life. Change is therefore inevitable but not random.

Organisation of the Book
The book is organised into four sections. This introductory section is followed by Part One of the book that looks at education in Kenya before independence, which is before 1963. Part Two looks at education in Kenya after independence from 1963 to the present (2005). This is followed by the last Part Three that analysis several issues arising out of the whole education system. The brief discussion of the key issues leads to several recommendations as suggestions on various aspects of education as way forward. Part Four pulls together the main ideas that run throughout the text and proposes a new Education (Kenya) Act. Consequently, I relate the implications of the issues and concepts to education as could be demonstrated by a more comprehensive elaborate education Act. Each section begins with an introduction followed by a chronological analysis of key policy interventions and events through the educational development. There is a discussion in which issues of concern are highlighted and a conclusion at the end. The reader may then proceed and refer to an event or section. Such a format should facilitate, across the stages, the identification of the major concepts and procedural dilemmas common to the practice of education policymaking process and implementation.
1.1. Introduction

White settlers began to arrive in Kenya in 1900 and settled in the fertile ‘white’ highlands. In 1904, African farming was confined to native reserves leaving the highlands exclusively white. Leadership in colonial Kenya tended to be provided by the British aristocracy among who were Lord Delamere and others. They aimed at complete racial discrimination and the succeeding governors were under the influence of the settlers. Forced labour was virtually imposed through the introduction of taxes. It was not until the *Mau Mau* uprising in 1952-1955 that many of the settlers were forced to leave and the highlands were declared open for all races. The settlers also used their economic and political advantage to dictate the educational development in the country especially in depriving Africans education. Education was therefore among the major issues of concern that led to the rise of independent schools and a struggle for independence from colonial rule.

1.2. Education in Pre-Independence Kenya

♦ Before colonization at the turn of the twentieth century, Africans had developed their own ways of training the young generation to become responsible adults. This means that an education system existed in Africa even before the coming of the Europeans (Eshiwani, 1993). This was the traditional African Education. However, colonization marked the start of foreign western education systems and Christian Missionaries were the founders of foreign western education in Africa and in Kenya. The school curriculum depended on the missionaries concerned and the shape the education took lacked a definite policy (Sifuna, 1990; Eshiwani, 1993). Two Christian Missionary Society (CMS) missionaries, Ludwig Kraft and John Rebmann, established the first Mission school in 1846 at Rabai near Mombasa at the Coast. The school generally taught pupils the rudiments of reading, writing and arithmetic (what came to be known as the three R’s) and prepared them for Christian baptism.
An important aspect in the development of education in Kenya at the turn of the twentieth century was the Missionary - Government co-operation in the provision of education. Missionaries established the first formal schools in Kenya. From an early start, the two worked hand in hand, with the government urging missions to give technical education a central place in the schools. European settlers on their part needed the cheap labour provided by the Africans and therefore, they wanted them to have a practical education to acquire skills useful on the settlers’ farms as labourers.

In 1908, a Joint Committee on Education was formed to bring together various protestant missions for discussion on common problems in education and to bring together a united approach towards an efficient education system. It embraced both the Church of Scotland Mission and the Church Missionary Society. In 1909, the joint committee became the Missionary Board of Education. It represented all the Protestant churches in Kenya and provided a forum for discussion of issues such as school textbooks, teaching methodology and language of instruction in schools.

In 1909, a Government Education Board was formed. This coincided with the Fraser Education Commission of 1909 that was commissioned to recommend a structure of education approach in the East Africa Protectorate (Kenya).

Professor J.N. Fraser was an educationist from Bombay India and he was commissioned by the government to carry out a survey of education in Kenya. In particular, he was to recommend on the type and organization of that education. The Fraser Education Commission (1909) came up with several recommendations. For one, it suggested a separatist system of education on racial lines, that is, European, Asian and African with European and Asian children receiving academic education. Further, it suggested that there was no need for literacy education for the African natives but to develop industries among them. This way, it was argued, the Africans would replace the Indian artisans who were more expensive. This native education, he recommended, should be of a practical and technical nature and accompanied by religious instruction. The existing Government – Missionary cooperation was lauded as desirable and the government was to assist mission schools. Fraser also recommended the establishment of a Department of Education and the appointment of a Director of Education.
The Government Education Board approved and accepted the recommendations on the administrative structure of the education system. As a result of the Fraser report, grants-in-aid were offered to certain mission schools for technical education. In addition, the Department of Education was also established in 1911 and a Director of Education was appointed. This was J. R. Orr. The first Government African School was opened by Orr at Machakos in 1911.

By 1912, **Industrial Training** in basic technical skills such as carpentry and agriculture was conducted. In 1924, the government opened the Native Industrial Training Depot (NITD) to train African Artisans to replace the Indians. Following the Great Depression of 1929, the intake at the NITD was reduced. In 1933, the missions dropped apprenticeship to concentrate on other types of education. The government in turn took over the responsibility for all industrial training. As a result, all primary schools were relieved of teaching technical education.

♦ In 1911, the Education Board took over the running of schools. It improved European and Asian Railway schools. In addition, it opened new schools for Europeans and Asians.

♦ In 1919, an Education Commission, the **Education Commission of East Africa Protectorate** (Kenya) was established to look into the nature of education in Kenya. The commission recommended moral and religious education in African schools and the teaching in vernacular at the initial levels and later English for practical (read communication with colonialists!) purposes. The Commission noted the important role missionaries were playing in education of the natives in Kenya and lauded the already existing missionary bodies as the best method capable of furthering education training for the natives. The commission therefore recommended that the government should play a greater role in education and subsidise the Christian Missionaries in respect of technical schools. It further recommended the continuation of technical education in the African curriculum. On Teacher Training, the report recommended every missionary society to be encouraged to establish its own teacher training centres maintained by government funds, that teachers be graded according to their qualifications and their salaries subsidized by the government. In 1920, the government granted a sum of 600 pounds to Church Missionary Society, Maseno; Church of Scotland Mission, Kikuyu; and Church Missionary Society,
Buxton High School, Mombasa, to start training teachers. But unfortunately, this was delayed because European teacher educators were not immediately available. Formal teacher training started in 1925. Most of these recommendations were however implemented. African education was left to the missionaries and moral and religious instruction was incorporated in African schools. Grants in aid were not longer tied to examination results.

♦ In 1922, the Education Department established a **grants-in-aid system** by which certain missionary schools that met certain standards would receive financial aid.

♦ In 1923, the **Devonshire White Paper** was issued. It stressed the supremacy of African interests. In addition, a general policy concerning native education in Africa was also founded in *The Conference of Mission Societies in Great Britain and Ireland* of 1923. Mission education was to aim at improving the general, material and moral life of the community and give special attention to the training of leaders. It was also meant to satisfy the needs of urban communities by training clerks and technical workers as well as professionals such as lawyers, doctors and the clergy.

♦ In 1923, an **Advisory Committee on Native Education in British Tropical Africa** was created. The advisory committee had government, missions and settler representatives.

♦ The **Ormsby-Gore Commission** (1923) encouraged cooperation and control between the government and other agencies in promoting education. It recommended that education should be based on the culture of the people and emphasized on religion and character building. It also recommended the establishment of grants-in-aid and emphasis of teaching of selected vernacular languages, the expansion of teaching staff, inspection and supervision of education. Further, it emphasized technical and vocational training, female education and a general restructuring of the school system. But due to the influence of the colonial government and missionaries in their emphasis on industrial education, the report did not do much to further African education.

♦ In 1924, **E.R. Hussey** was invited by the government to investigate Arab and African education. He noted the need to improve Arab education, the continuation of grants-in-aid
and the need to improve African village or elementary schools. He recommended the commencement of evening classes in commercial and technical subjects in Nairobi and Mombasa. The Director of Education was also to be assisted by European and African Inspectors in village or elementary schools.

♦ In 1924, the Phelps - Stokes Commission visited East Africa and focused on the education needs of Africans. The commission was set up to look into education programmes and needs in each geographical area within the British protectorate, identify the local religious, economic and social health needs and the extent to which they were met. Although the commission welcomed the development of the grants-in-aid, it focused greatly on the dismal state of education for Africans. Government expenditure on African education was negligible and inadequate in proportion to the population. It noted and praised the appointment of the Advisory Committee on Native Education (1923) with representatives from government, missionaries and the settlers. However, it emphasized the need for greater cooperation between the government and the missions. As a result, it recommended a uniform system of education for all mission and government schools, increased grants-in-aid administered by the Department of Education and more staff and responsibilities for the Department of Education. The Commission stressed the need for more teachers in order to cope with the increasing number of school going children and further emphasized the need for the Government to set up adequate Teacher Training Centres (TTCs) as a responsibility of the Government. It emphasized the need for training in Agriculture and Industry and the adoption of education to individual and community (local) needs. English was to be a medium of instruction in the upper forms. In addition, it pointed towards the expansion of girls’ education and that girls and women’s education should be brought into prominence.

The commission further argued that education should be related to the needs of the people and attempted to transfer to Africa theories on Negro education by recommending the establishment of the ‘Jeane’s School’ in Kenya. Jeanne’s schools was a term borrowed from the USA in which education must be vitally related to the needs of the people and character training was decidedly the most important educational objective. The school was opened at Kabete in 1924. Missionaries opposed the school since it was a secular school and Africans did not want the type of education that it offered.
As a result of the Phelps Stokes Commission, the *Education Ordinance of 1924* was instituted. This marked a definite commitment on the part of the Government to supervise and direct education at all levels. It provided for the appointment of a central committee for each race to advise the Director of Education on education of the various races throughout the country. This was to be done with the assistance of 3 advisory committees to deal with European, Asian and African Education. Subsequently, all teachers and schools were to be registered. In addition, the Director of Education was empowered to inspect all schools. District Education Boards (DEBs) were set up to assist in the management of all local schools. Members of the DEB were nominated. This marked the start of interest in African representation and opinion in Educational Management though the content of education differed in many aspects from European and Asian education. This resulted in the establishment of agricultural and technical schools and leadership schools like Alliance and Mang’u. This development notwithstanding, the shortcoming of the commission led to the emergence of more independent schools. A 6-2-4 (6 years primary, 2 years intermediate and 2 years secondary) system of education was also established in 1924. The ordinance also gave the governor powers to divide the country into school areas.

♦ In 1924, *Local Native Councils* were established. These were considered more legitimate to represent African interests. They had power to vote tax levies. To meet Africans demands for education, the Local Native Councils set up secular schools separate and independent of the missionary influence. By the end of 1934, they had helped in establishing schools at Narok (1922), Kericho (1925), Kajiado (1926), Tambach (1928), Loitokitok (1929), Kakamega (1932) and Kagumo (1934).

♦ The issue of Teachers payment came into the limelight in 1925 when an inquiry was made into the grants-in-aid system. The inquiry recommended that the government should provide leave passage allowance and pay four-fifth of the pay of European teachers in missionary employment. For African teachers, the government was to provide two-thirds of the salary and the missions to pay for a third. Building and equipment maintenance allowance was increased considerably following satisfactory reports by the government inspector. The government was also to pay half of the cost of new capital expenditure on the mission schools. The missionaries welcomed the proposals.
In 1925, the colonial office established a **Permanent Advisory Committee on Education in Tropical Africa**. This constituted the **1925 Memorandum**. It relied heavily on the Phelps Stokes report and established 13 broad principles among them the need to adopt education to positive moral traditions and occupation of the various peoples. Cultural and environmental aspects were to be considered and adopted progressively and as appropriate. The memorandum cited the importance of developing the entire range of faculties from infant education (pre-school) to higher (university) status. This included specialised training as well as general community development. To achieve these aims, educational advisory boards representing various agencies were to be established and the element of cooperation was to be maintained by the grants-in-aid system of subsidising mission schools.

♦ The **Kenya Education Ordinance of 1931** evolved a more comprehensive education policy. It repealed the 1924 ordinance and replaced the central committees with advisory councils. The governor was empowered to appoint one or more advisory councils to advise the Director of Education in regard to matters affecting education. Separate education advisory councils were created for African, Arab, European and Indian Education and rules made regarding the issue of teacher certificates. The committees consisted of the Provincial Commissioner and 3-6 representatives of the Local Native Councils. The Ordinance categorised primary teachers as elementary, lower primary and primary.

♦ In 1933, a **Conference of Directors of Education** of all the three Territories of East Africa was held in which several major recommendations were made.

These included:

- The reduction of gender disparities in education
- The continuation of grants-in-aid to missions
- Increased number of European inspectors to be provided to make them adequate
- Native authorities to make use of the services of mission bodies
- The development of technical and vocational training according to the needs of the country
- Careful regulation to provide training in the administration and technical services of the country
- More emphasis on adequate supply of teachers
- Elementary and vernacular education was to be extended as suited the environment
- The need for a practical agricultural curriculum
- More advanced education for a limited number of people
- The continued use of Makerere College rather than building new centres
- Improved housing conditions in the villages

♦ The **Kenya Education Ordinance of 1934** established District Education Boards (DEBs) to function in various parts of the country. The DEBs handled various issues including: registration of schools; the allocation of grants; school fees and scholarships; salary scales; and, the leasing of school development plots.

♦ The **Pim Report of 1935** recommended further extension of teacher training facilities and extension of schools. It noted and complained about the high financial expenditure on primary education brought about by the high percentage of European teachers in schools. To cut down the cost and the high expenditure, there was need to expand the training of native (African) teachers. This prompted the missionaries to establish TTCs separate from primary and secondary schools. Plans were put forward by the protestant missions to open the Joint Normal School at Kahuhia. Some primary schools were also earmarked for future teacher education training. As a result, Kagumo College opened in 1944 to train primary teachers of all denominations.

♦ Independent schools had started to emerge in Kenya before the First World War. The management and control of these schools came in the limelight in 1925 when a Mr. Silvester was requested by the Department of Education to conduct a survey into village education in Kavirondo and to take special note of what were then referred to as ‘outlaw schools’ (Sifuna, 1991:156). These were schools conducted by Africans without dependence on a recognisable body. The report highlighted the inefficiency of the mission schools because Africans wanted to control and run their own education rather than depend on missionary schools. This desire was also intensified by the politics of the newly formed young associations such as North Kavirondo Association in Nyanza Province and Kikuyu Central Association in Central Kenya and government slowness in granting
Africans secular schools. The schools aimed to fill the gaps in education left by missionaries and majorly to avert a missionary onslaught on African customs. As a consequence, ‘outlaw’ schools had emerged. There was need to supervise and register these ‘outlaw’ schools. The quality of education was noted to be low and some merely prepared students for membership to a particular sect. Independent schools faced many practical problems. These included the quality of buildings, teaching materials and teaching staff. The problem of teachers was acute in that these teachers were government and mission rejects or unqualified. Fees and fees payment were low and misappropriation of funds common. Despite these difficulties, most of them were notable in regard to general discipline, cleanliness and in some cases; the standards were as high as or higher than the mission schools.

- In 1936 a Joint Conference was held with representatives of government and independent schools at the Jeanne’s School, Kabete. Among the issues to be discussed was the role of English as a subject of Instruction. Independent schools felt English should begin in standard two while the Department of Education felt this was too early and insisted on standard four. A compromise was reached in which the teaching of English would start in standard three and English would be the medium of instruction from standard four. In addition, the Independent schools were to follow the official syllabus, become members of the DEBs, subject to supervision by the Department of Education and their teachers were to be paid by the government.

- The Pim Commission of 1937 recommended further extension of training facilities and expansion of schools.

- In 1937, the De-La-Warr commission was established to look into the possibilities for higher education in East Africa. The commission recommended that Makerere College in Uganda be the University College of East Africa. Makerere had started as a technical college in 1922.

- The Second World War (1939-1945) greatly disrupted the development of African education in that resources that hitherto have been utilized for its expansion were diverted to the war efforts. There was a serious shortage of staff in schools as Europeans
concentrated on the war and the few educated Africans joined the army due to better pay. But the effects of the war were to be felt as the war veterans returned home more enlightened and increased their demands for literary education. This demand gained more impetus with the rise in the human rights movement, as other forces in Britain demanded better education in the colonies. The demand for schooling after the war triggered an increase in the number of educational institutions, for example, the number of teacher training institutions more than doubled and it was clear there was need for more organization. Despite the hardships, there was a marked development in African education in the first six years after the war.

**Table: 1.1. Growth in Education, 1945 - 1951**

<table>
<thead>
<tr>
<th></th>
<th>Elementary and primary school</th>
<th>Secondary schools</th>
<th>Teacher training centres</th>
</tr>
</thead>
<tbody>
<tr>
<td>1945</td>
<td>2,133</td>
<td>4</td>
<td>24</td>
</tr>
<tr>
<td>1951</td>
<td>2,860</td>
<td>59</td>
<td>43</td>
</tr>
</tbody>
</table>

*Source: Department of Education Annual Reports*

Three different proposals on the development of African education followed the war:

- The Report of the Development Committee (1945);
- The Ten Year Plan for the Development of African Education (1948); and,
- The Beecher Education Committee (1949).

♦ In 1945, the Commission on Higher Education in the colonies, the Asquith Commission visited Makerere College. It reported that the college had taken steps towards becoming a university since 1937. Therefore, it recommended that Makerere should award its own diplomas and efforts made to secure the recognition of these diplomas. In addition, it recommended that the College should offer university degrees in conjunction with the University of London.

♦ The 1948 Education Memorandum for Citizenship noted the need to integrate literacy and technical skills with a sense of public responsibility and democracy.

♦ The Ten Year Plan (Colony and Protectorate of Kenya, A Ten Year Plan for Development of African Education, 1948) was designed to meet the needs of each district
in the country and was the culmination of the report of the Development Committee for education that had already been rejected. The plan proposed to provide full primary education training course for untrained teachers within ten years. Provision was made for the establishment of an elementary teacher training centres. The purpose of this training was to ensure adequate supply of trained teachers to enable pupils of both sexes receive education up to school certificate level. This was to be done via the payment of grants in aid in respect of qualified teachers rather than increasing the number of schools on the grants in aid list. The plan was obviously not implemented chiefly because of the bias towards African education. Besides, the financial burden was placed on local authorities and was obviously beyond their capacity.

♦ On 18th March 1949, a committee led by Archdeacon Beecher was appointed to look into the scope, content and methods of African education system and reported in September same year. The committee noted the intensity of expansion of primary education without adequate provision of funds. It highlighted the need to strictly supervise and control primary school expansion and the expansion of teacher training. Further, it recommended that primary and intermediate schools be placed under the earlier established and reconstituted DEBs to ease the financial burden on local authorities. It also recommended that the existing cooperation between the government and the mission be maintained. The report recommended a change of education system from 6-2-4 (introduced by the Education Ordinance in 1924) to 4+4+4 (4 years primary; 4 years intermediate; and, 4 years secondary) system. At the end of each stage, students had to sit for an examination, which they had to pass in order to be promoted to the next higher class. Thus, the system remained examination oriented and highly competitive. The new structure was meant to present each stage of education as a complete course. The report recommended the opening of an additional sixteen secondary schools by 1957 in the context of 4:4:4. Africans found this number inadequate. The report was conspicuously silent on higher education for African students in Kenya.

Though the report was accepted and approved by the government in 1950, Africans strongly objected to some aspects of the report. They argued that the report emphasized on quality rather than quantity and thus would lead to low enrolment and would not improve on literacy. The 4-4-4 system, they argued was also too short to achieve permanent literacy. The Fraser Report (1909) and the East African Protectorate Report (Kenya) of
1919 had formed the basis of education in the colony until the Beecher report. Notwithstanding, the Beecher report remained the basis for government policy in education in the 1950s and formed the basis of Government policy on African education until the end of the colonial rule after independence in 1963.

♦ In 1949, a committee chaired by G. L. Willoughby recommended the establishment of a Technical and Commercial Institute in Nairobi. The institute was to provide full-time and part time instruction for courses leading to the Higher National Certificate offered in Britain. The institute was also expected to prepare students through full-time study for university degrees in engineering and allied subjects not provided at Makerere University in Uganda.

♦ The Binns report of 1952 studied the position of African Primary and Secondary Education and consulted on the future progress. It expressed utmost concern on the status of the teaching profession caused by lack of coordinated and structured teacher institutions. The commission therefore recommended the setting up of institutions of education (later K.I.E.) to coordinate teacher-training activities. It emphasized the cooperation between the government and the missionaries in the provision of education services. It called for a unified teaching force and emphasized agricultural training in primary schools. It endorsed the teaching of vernacular languages to preserve the moral values of the natives but advocated the elimination of Kiswahili on the basis that it impeded the learning of both vernacular and English. In 1957, the government set up the Eastern Teacher Delegacy headquarters at Kagumo and in 1959, a similar organization, the Western Teacher Delegacy was established at Siriba. These delegacies were groups of colleges that came together to coordinate aspects of teacher education in the regions within which they were situated. In 1964, they merged to form the Kenya Institute of Education.

♦ In 1952, a proposal was put forward to modify the 1948 structure so that Forms I and II in the intermediate school would become standards 7 and 8 respectively. Secondary school would have two segments of four years (Form I - IV) and two years (Form V - VI). This structure was implemented in stages. For instance, in 1957, the Common Entrance Examination (CEE) was abolished and the then Kenya African Preliminary Examination (KAPE) pegged at standard 8. Similarly, the then Kenya African Secondary Examination
(KASE) was abolished leaving the Cambridge School Certificate Examination (CSCE) at the end of Form IV.

♦ But again in 1952, a state of emergency was declared and this rendered all efforts to implement any education policies fruitless. The period 1952-1963 was to be a nightmare for African education as African independent schools were closed down by the colonial government with the allegation that the teaching was subversive and the institutions were involved in independence struggle especially Mau Mau activities in central province. Out of 158 schools, 33 were closed and several teachers arrested under colonialist laws.

♦ In 1956, the Technical and Commercial Institute in Nairobi obtained a Royal Charter and merged with the Gandhi Memorial Academy to become the Royal Technical College. Gandhi Memorial Academy was an institution of higher learning started by the Asian community. Higher education received growing interest from the authorities. As a result, two working parties led by Sir Alexander Carr-Saunders and John Lockwood were instituted in 1955 and 1958 respectively. They both recommended that each East African Territory should establish a university college. Following the recommendations, the Royal Technical College, Nairobi was transformed to Royal College, Nairobi and begun to conduct degree courses with the University of London in 1961. In 1963, Royal College Nairobi became University College, Nairobi. Together with the University College Dar-es-Salaam and Makerere University College, the three formed the Federal University of East Africa. Two institutions were added to the college, the Institute of Adult Studies in 1963 and the Institute of Development Studies in 1965. An Act of Parliament established University of Nairobi as the first public University in Kenya in 1970.

♦ On the 14th of May, 1959, the Kenya National Union of Teachers (KNUT) was founded. The fight for a teachers union dated back to 1934 when Messrs. James Gichuru and Eliud Mathu formed a teacher’ association, the Kenya African Teachers Union. This union was eventually suppressed by the colonial powers. Later, teachers’ started forming sectional or regional organisations based on provinces or denominations. It was not until 1955 when the former President Daniel Arap Moi was elected to the Legislative Council from Rift Valley and Moi successfully moved a freelance motion in the house in 1957 on the need for the government to assist teachers form a national body. The government accepted the
motion and in a meeting of the leaders of the existing unions at Pumwani D.E.B. School in 1957, a teacher’s organization was formed. The Central Executive Committee later the National Executive Council met and issued several demands. These included: abolition of the colonial code of discipline; unified terms and conditions of service; a single employer for teachers; pay rise for all teachers in all grades; free pension for all teachers; and, responsibility allowance for all posts of responsibility.

♦ The Lawrence Commission was formed in 1959 to look and report into the teachers’ demands. It recommended that teachers’ salaries were not to be reviewed. This was rejected by KNUT and resulted in a strike in 1962. As a result, the Pratt Commission was formed in 1963. It recommended new salaries for teachers.

♦ In 1961, the ‘A’ level classes (Higher School Certificate (HSC)) were introduced in five African schools. These were Alliance Boys High School, Alliance Girls High School, Kakamega High School, Kangaru High School and Shimo la Tewa. For the first time, Africans were allowed to sit for A-level examinations. The Cambridge Higher School Certificate (CHSC) became the major selection tool for admission to the university. This later became the East African Advanced Certificate of Education and Kenya Advanced Certificate of Education (KACE).

♦ On the eve of independence, there were several responses that emphasized on the inadequacies of education in former colonies. Alternative education policies were in favour of expansion of educational opportunities for the supply of skilled manpower and as a way of promoting economic and social development. This and other issues were addressed, for example, in the Addis Ababa Conference of African States in May 1961. A follow-up of the conference was made in the Paris Conference of March 1962 that further emphasized on:

- The training of high level skilled manpower;
- The expansion of teacher and secondary education to meet the above goal;
- The need to develop adult education to speed up economic growth (this must be looked at from the understanding of the many Africans who had hitherto been derived an opportunity in education by the colonialists)
Another conference was held in Kinshasa in February–March 1963, where African states now besieged by a national deficit due to increased education expenditure sought for more external economic assistance.

♦ In July 1962, KANU commissioned the Griffith Report that emphasized on the need for the supply of high-level African manpower, strengthening national unity and creating a strong civil service. The report placed a high priority on the development of secondary education and the Africanization of both the curriculum and teaching staff. Earlier in 1961, the Kenyan and British Government had requested the World Bank for an economic development survey that assigned agriculture a top priority and education a low priority except in terms of human resource training. The survey report like the KANU report also emphasized the need to develop secondary and teacher education. Education received a further boost via the Hunter Report of 1962 that examined the future development needs of the country. The Hunter Report considered the number of secondary schools inadequate to accommodate the large number of primary school leavers and it foresaw a rapid expansion of secondary education that would lead to low academic standards and increased demands for higher ‘A’ level places. The report therefore suggested a need to strike a balance between these three stages. It still reaffirmed the urgent need to develop secondary education. Thus secondary education was to receive a lot of emphasis after independence.

1.3. Critical Review
Despite the education commissions and policy statements, government involvement and participation in African education remained minimal until the 1920s. The main government concern was with European and Asian education. African schools were largely in the hands of missionaries. The idea that Christian Africans could only be effectively civilized away from their culture or pagan environment and the urge for them to adopt a western (European) way of life led to the setting up of boarding schools in the mission stations (Sifuna, 1990; Eshiwani, 1993). Such centres proved very unpopular with the majority of Africans.

Before the government formal implementation of education policies, the school system consisted of Village and Central schools. Little secular instruction was given in the village schools. Above the village schools were the central schools which aimed at the completion of primary school course. This provided a general education leading to a Teacher Training Course or secondary school. What came to be known as primary schools were formally
central schools and these were mainly boarding schools (Sifuna, 1990:131). Elementary and primary education expanded rapidly though this was elementary and at very low-level while the development of secondary education was painfully slow.

A cordial relationship developed between the government and the missionaries. For example, with the development of grants-in-aid system the relationship was strengthened and officially acknowledged by the Education Department in 1926. The relationship became increasingly formalized so that the missions assumed responsibility for primary and secondary education and the government for higher education and technical subjects. But it must not be assumed that European settlers were not critical of this education. They were dissatisfied with literary education consisting of simple reading, writing and arithmetic. As Europeans became more entrenched in Africa and in Kenya, they began to take a very keen interest in education. The experience in India was often referred to in the British territories where literary education had produced culturally alienated elites, discontent and an uprising against British administration of the colony. Critics feared that the example of India would be reciprocated in Africa and hence suggested mass education conducted in vernacular (except at higher level) at the village level consisting of religious, moral and environmental education. The ideal African would be able to work in the farms and technical and agricultural education was therefore crucial. That way, education could only be developed along racial lines.

During the inter-war period, education was marked by increased government involvement through support of the mission schools. Government expenditure on African education was negligible until 1921 when the colonial office directed that it be increased. Interest in African education had also started to develop in Britain. For example, in 1929, the colonial office gave the first grants for colonial development but the depression in 1929 and the Second World War (1939-1945) prevented any effective financial assistance. It was not until 1944 when the Commonwealth Development and Welfare Act was passed that effective funding could be made. As a result, the British Colonial office became more concerned with the pattern of education in the African colonies.

Though on the face of it the number of secondary schools had reduced in the 1950s, this was because of a merger of several institutions for efficiency while some of the 59 schools quoted in 1951 were not aided. Technical education remained an important aspect of native education since the Fraser report (1909) with little attention on literacy education. This was in
line with colonial and missionary thinking in that they both emphasized on heavy industrial education such as brick making, carpentry, tailoring, agriculture and road building. For instance, in 1961, the Kenya Polytechnic was opened to replace the Royal Technical College of East Africa (University of Nairobi). In 1972, the Mombasa Institute of Muslim Education (MIOME) became a national polytechnic while in 1977, the Kenya Technical Teacher’s College (KTTC) was established to train technical and vocational secondary teachers. Despite all this, the existing education policies did not adequately address African education. For example, only the Beecher report (1949) comprehensively surveyed African education in Kenya and was acted upon. Thus, higher education generally lagged behind and secondary and higher education only witnessed a steady and expanded growth after the Second World War.

Colonial education was segregative and exploitative. At independence, there were four separate educational systems: African, Arab, Asian and European. There was the stratification of colonial education into European, Asian, Arabs and Africans in that order of superiority. Africans received the least in terms of capital and services. For example, there were only 335 Kenyans at university within East Africa and 1,576 aboard. Primary and secondary school enrolment was also poor.

Table 1.2: Primary School Enrolment, 1963

<table>
<thead>
<tr>
<th>Racial Group</th>
<th>Primary Pupil Enrolment</th>
<th>School Age Population</th>
<th>Pupils enrolled as a percent of School Age Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>African</td>
<td>840,677</td>
<td>2,421,300</td>
<td>34.7</td>
</tr>
<tr>
<td>Arab</td>
<td>3,222</td>
<td>9,000</td>
<td>35.8</td>
</tr>
<tr>
<td>Asian</td>
<td>40,915</td>
<td>52,800</td>
<td>77.5</td>
</tr>
<tr>
<td>European</td>
<td>6,639</td>
<td>8,900</td>
<td>74.6</td>
</tr>
</tbody>
</table>

Table 1.3: Secondary School Enrolment, 1963

<table>
<thead>
<tr>
<th>Racial Group</th>
<th>Secondary St Enrolment</th>
<th>School Age Population</th>
<th>Pupils enrolled as a percent of School Age Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>African</td>
<td>10,593</td>
<td>829,700</td>
<td>1.3</td>
</tr>
<tr>
<td>Arab</td>
<td>292</td>
<td>3,100</td>
<td>9.4</td>
</tr>
<tr>
<td>Asian</td>
<td>13,921</td>
<td>17,200</td>
<td>80.0</td>
</tr>
<tr>
<td>European</td>
<td>3,265</td>
<td>3,300</td>
<td>98.9</td>
</tr>
</tbody>
</table>

The term Net Enrolment Ratio (NER) was born. NER is a measure of the number of pupils or students enrolled in school as a percentage of the total population of all school going children in that age group. For example, the NER of 34.7% in primary enrolment for Africans (that is
840,677 pupils out of a school age population of 2,421,300) was the lowest as compared to the European and Asian (74.6 and 77.5 respectively. The situation in secondary schools was even more pathetic with a NER of 1.3% for Africans and an almost full enrolment (98.9) for Europeans. There were basically two structures of education: African and European/Asian. While primary education for Africans lasted four years (Standard 1 to 4), the European/Asian lasted seven years (Standard 1 to 7). For Africans, they were expected at the end of the four years to have gained literacy and numeracy and to read the Bible. For the Europeans/Asians, class seven was a preparatory stage for secondary school education. There were limited opportunities for Africans that was curtailed by controlling the number of Africans who could move from primary to secondary. One strategy was the introduction of intermediate school that consisted of classes 5 and 6 and Forms I and II. Graduates of intermediate school were expected to train as primary school teachers, trade schools and agriculture training centres. The idea was to deny Africans education.

In addition, missionaries constantly attacked and undermined the traditional way of life. They used schools and missions as centres for indoctrinating Africans to devalue their culture and adopt the western way of life. Africans wanted an education that could help them develop socially, economically and politically. This and the demand for appropriate academic education for Africans led to the setting up of independent African schools that were for Africans and run by Africans. These schools offered academic education and incorporated African culture. Such movements started in 1910 in Nyanza and became active in Central province in 1920s. It culminated in the setting up of Kenya African Teachers College (KATC) at Githunguri on 7th January 1939 to train teachers for the independent schools and for all Africans in the country. But the colonial government in 1952 closed it on the pretext that it was a recruiting ground for Mau Mau. Africans were disheartened by this move and they saw it as yet another way to deny them a chance to develop their own education using their own effort. Nonetheless, independent schools continued to grow. These schools were a clear demonstration of the dissatisfaction with colonial education and the need for more enhanced education that was to form a major borne of contention in the demand for independence. More importantly, they sent the message of the African dissatisfaction with colonial education and colonial and that Africans were capable of organizing themselves and running their own affairs. They were to say the least a slap on the face of the colonial legacy in Kenya. But though both the demand for better education and political independence had taken root, the colonial legacy continued.
Notwithstanding, various Education Commissions emphasized the importance of training qualified teachers for native African schools (Education Commission, 1919; Phelps Stokes, 1924). This was because Missionaries trained and employed the teachers under different terms and conditions of service. These terms were set and dictated upon by the various individual missionary groups. Therefore, teachers had no voice and no union. It was difficult to organize and run an effective teacher’ organization at the time. Thus it was not till after independence that the terms and conditions of service for teachers were harmonized.

1.4. Conclusion
During the colonial period, the education of Africans was relegated to the wishes and whims of the colonial government and the missionaries who worked in cohort and any contradictory view was quenched. For example, the Ten Year Development Plan (1948) was not implemented and was sidelined such that it is rarely mentioned yet it would have been the basis for equity in education opportunities and universal FPE that the independent country was to struggle with much later (1974, 1979, 2003) under President Kenyatta, Moi and Kibaki. The Binns report (1952) recommendation on the need to coordinate teacher education was never implemented. But these two reports were significant in independence Kenya. For example, the government and the Ministry of Education continue to design strategies based on a period of time such as the development plans or the national framework for action. The Binns report influenced the development of teacher-education and led to the pursuance of the need to amalgamate and coordinate teacher training. Thus, the reports would have had far-reaching implications in education achievements if they had been implemented as suggested (1948 and 1952). But obviously, this would not have been in the interests of the racially biased and segregate colonial government and they were shelved.

This was principally because the objectives of that education were:

- For the missionaries, education was the training ground for African clergy. This was purely evangelistic.
- For the government, education was for the enabling of a production of African labourers. This was productive manual labour.
- For the government, it was to deceive the Africans that they were receiving education, as were the other races (Europeans and Asians). This was to avoid discontentment among the African population.
The colonial legacy of a racially exploitative education system lacked comprehension and integrated programmes to serve the nation (Eshiwani, 1993). On the eve of independence, there was an absolute need to expand and reform the education system to make it more effective, efficient and responsive to the needs of the country. More educational opportunities needed to be created and new strategies had to be adopted. The quality of education had to change in the new era and this had to be provided by a well coordinated and expanded national programme as the new state assumed responsibility. Such a system had to be established. In so doing, a lot of importance was attached to the role of education in promoting economic and social development that resulted in a rapid expansion of the education system. There was a clear need to review the existing curriculum and an integration of the African culture in education. Universal Primary Education (UPE) was a major issue that needed to be addressed and education had to provide for the growing economic development.
PART TWO
PRESENT EDUCATION FRAMEWORK

2.1. Introduction
Kenya gained self-rule or Madaraka on 1st June 1963, and independence on 12th December 1963, under the first president Mzee Jomo Kenyatta. The ruling party KANU had education top on its agenda and had pledged to achieve universal primary education. This was evident in the consequent expansion of education. Upon Jomo Kenyatta’s death on 22nd August 1978, Daniel arap Moi took over the leadership and retired on 30th December 2002 in line with a constitutional Provision which limits the Presidential term to a maximum 10 years of 5 years each. This provision took effect in 1991 following the re-introduction of multiparty. Previously Kenya was a single party state. President Mwai Kibaki took over on 30th December 2002 to become Kenya's third President after his National Rainbow Coalition (NARC) won with a landslide in the December 27th 2002 general elections, thus ending KANU's forty-year stronghold. This was historic in two main ways: it was the first time when an incumbent president stepped down for a new leader; and, part of NARC election pledges was the implementation of free primary education in Kenya effected immediately in January 2003 and to resolve an outstanding salary increment dispute between the teachers and the government implemented in the 2003/2004 financial year. Education has therefore been top on the political agenda.

Education in Kenya aims at:

⇒ Fostering and promoting national unity
⇒ Equipping the youth with knowledge, skills and expertise to play effective roles in the nation
⇒ Serving the needs of national development
⇒ Developing, fostering and communicating the rich and varied cultures of Kenya
⇒ Promoting justice, morality and social responsibility
⇒ Fostering positive attitudes towards other nations (international community)
2.2. Framework of Education in Kenya

The vision of the MOEST is:

**Quality Education for Development**

The mission of the MOEST is:

**To Provide, Promote and Co-ordinate Life-long Education, Training and Research for Sustainable Development**

Educational policies in Kenya are based on various policies and statutory documents established in independent Kenya. They constitute the legal framework of the country’s education system.

These are:

♦ The Constitution. The Constitution of Kenya guarantees the fundamental rights of the individual, whatever the race, tribe, place of origin or residence, colour, creed or sex (Republic of Kenya, 1970 Section, 70).

♦ In 1963, Kenya attained independence. In the 1963 Kenya African National Union (KANU) Manifesto, the Government committed itself to eventual provision of free Universal Primary Education (UPE) and also spelt out other social –economic aspirations to be met through education.

♦ In 1964, the Kenya Institute of Education (KIE) was established as a direct result of a Conference organized by the then University of East Africa in Mombasa in January 1964. KIE was entrusted with the organization of the curriculum and other teaching methodology.

♦ In 1964, the Kenya Education Commission (Republic of Kenya, 1964) known as the Ominde Commission was appointed to look into the existing education system in Kenya. It was also to advise the Government on the formulation and implementation of national policies of education. The commission was a landmark in that it set out the objectives of
education in Kenya and laid the foundation of the pattern of education in independence Kenya. It abolished the segregation of schools along racial lines and established a standardized national curriculum for all. It localized the curriculum and the medium of instruction. The Ominde report recommended the management of public primary schools by local authorities. It placed emphasis on secondary and higher education for the production of middle and high-level manpower training required for development. On Teacher education, the Commission recommended the consolidation of Teacher Education Centres. The Commission further recommended free primary education (FPE). The report however observed that primary education could only be free if it was universal. Community responsibility and their involvement were emphasized in the provision of services. Further Government efforts were to be directed towards the ASAL areas where enrolment fell below expectations. As a way to strengthen girls’ education in sparse areas, the report recommended that separate schools for girls be established in these areas. The period of primary education was reduced from eight to seven years in 1966 and the Kenya African Preliminary Examination (KAPE) was renamed the Certificate of Primary Education (CPE).

In 1974, school fees were abolished in standard 1 - 4. This resulted in an overwhelming enrolment of over 1.8 million additional children in schools. School fees for standards 5-7 were abolished in 1979. The introduction of free milk in 1979 was also meant to intensify the feeding programme for school children especially in arid and semi-arid areas. In a circular 9/9/67 of 1st February 1989, all secondary schools were categorised into either public or private schools. Private schools are developed, equipped and provided with staff from private individuals or organisations. Public secondary schools are developed, equipped and provided with staff from public funds by the Government, parents or the community. For admission purposes, public secondary are categorized into three categories: National, Provincial and District schools.

♦ The Sessional Paper No. 10 of 1965 on African Socialism and Its Application to Planning in Kenya (Republic of Kenya, 1965) set out strategies for social-economic development. It singled out poverty, ignorance and disease as the major impediments to national development. It also underlined the role of education as the principal means of producing domestic skilled manpower for economic growth and development and
equalizing economic opportunities among all the citizens. Education was hence seen in terms of empowering the individual and serving the needs of national development.

♦ **The Board of Adult Education Act of 1965** established the Board of Adult Education to co-ordinate Adult Education activities countrywide. The board was established within the Ministry of Culture rather than the Ministry of Education.

♦ **The Jomo Kenyatta Foundation** was founded in 1966 to print, publish and distribute educational materials and award of scholarships to bright needy secondary school students.

♦ The **Teachers Service Commission Act** (Republic of Kenya, 1967) Chapter 212 of 1967 (Revised 1968) established a single teachers’ employer and unified the terms and conditions of service for teachers in the country.

The Vision of the TSC is:

**Effective Service for Quality Development.**

The TSC is responsible for:

- Registration, that is to establish and maintain a register of teachers;
- Recruitment of teachers and confirmation of appointment;
- Deployment, that is posting and transfers;
- Promotion of teachers and confirmation of appointment;
- Remuneration, that is payment of salaries, returned salaries, other payments, leave, pension and death gratuity;
- Discipline of Teachers, and,
- Maintenance of Education Standards.

The Mission of the TSC is:

**To Establish and maintain a Quality Teaching Service Sufficient for all Public Institutions Responsive to a Changing Environment.**
In 1980, the regulations for the promotion of teachers were revised. The new regulations superseded any previous regulations on promotion of teachers on merit.

♦ **Sessional Paper No.5 on Special Education (1968)** laid out a special education policy framework consisting of a special education unit at the MOE and a special education curriculum development unit at KIE

♦ **The Education Act (Republic of Kenya, 1968) Chapter 211 of 1968 (Revised 1980)** put the responsibility for education in the hands of the Minister responsible for education (Section 3) to promote the education of the people of Kenya and the progressive development of institutions devoted to the promotion of education. It instituted various organs for the organisation and management of education at all levels.

These include:

- Entrust of Functions to Local Authority (Section 5)
- Management of schools (Section 6 - 9)
- School Committee (Section 9)
- Board of Governors (BOGs) (Section 10 - 12)
- Registration of schools (Section 13 - 17)
- Inspection and Control of Schools (Section 18)
- Regulations as to Conduct of Schools (Section 19)
- Examinations and Diplomas (Section 20 - 22)
- Issue of Certificates or Diplomas (Section 21 - 22)
- Kenya Institute of Education (Section 23)
- Religious Instructions (Section 26)
- District Education Boards (DEBs) (Section 28 - 33)
- Use of Public Funds (Section 34 - 35)
- General Power to Make Regulations (Section 37)

Various legal notices have been issued to facilitate the effective functions of these organs. These include:
Legal Notice No. 73/1965 and 278/1966: The Education (Board of Governors) Kenya Polytechnic Order established a BOG for the Kenya Polytechnic that specified its corporate status, membership and functions. Kenya Polytechnic was opened in 1961.

Legal Notice No. 106/1968: The Education (Education Standards) Regulations. Under Section 19 of the Education Act (Republic of Kenya, 1968), the Ministry of education is expected to regulate educational standards as to the conduct and management of schools. The legal notice established the set standards of a primary or secondary school and any maintained training college.

Legal Notice No. 18/1969: The Education (Board of Governors) Regulations. This was established under section 12 (2). It regulates that where the Minister for Education appoints an administrator of a school in accordance with section 12 of the Education Act (Republic of Kenya, 1968), then the powers and duties of the BOG of the school shall be vested, exercised and carried out by the administrator.

Legal Notice No. 201/1969: The Education (Registration of unaided Schools) Regulations. Under Section 17 of the Education Act (Republic of Kenya, 1968), the Ministry of Education is to register all schools. The legal notice regulates the procedures to be followed in the registration of an unaided school by any person who desires to manage a private school.

The Heads manual (Republic of Kenya, 1975:30-31) gives further guidelines on Registration of schools (aided and unaided schools). It states clearly that it is a requirement that all secondary schools should be fully registered and the registration certificate clearly displayed in every school. Registration includes the registration of the school and approval of the manager of the school.

All registration certificates include the maximum number of pupils allowed in the school. A class is permitted 40 pupils. The Minister for Education appoints BOGs. Equally, the Minister must approve every manager of a school.

Legal Notice No. 50/1970: The Education (Entrustment of Functions to Local Authorities) Order. Under Section 5 of the Education Act (Republic of Kenya, 1968), the Minister responsible for Education can entrust any of his functions with respect to education to a local authority on such terms, conditions or restrictions set at the time.
Primary schools in the following municipalities are under them: Eldoret, Mombasa, Kisumu, Nakuru, Kitale, Thika and the city of Nairobi Municipal Council.

- Legal Notice No. 200/1970: The Education (Local Entry Fees for Examinations) Regulations issued under Section 22 of the Education Act (Republic of Kenya, 1968) regulates the fees payable by candidates on entering for specified examinations.

- Legal Notice No. 40/1972: The Education (School Discipline) Regulations. Under Section 19 of the Education Act (Republic of Kenya, 1968), the Minister may make regulations on the conduct and management of schools. The legal notice regulates school discipline to be applied in all schools. It provides for suspension of a pupil from school and the administration of corporal punishment.

The Heads Manual (Republic of Kenya, 1975:28-29) clearly stipulates that the head is ultimately responsible for school discipline and that all members of the school community must be involved in establishing discipline. It emphasizes that school rules must be short, clear and precise. They must be beneficial, purposeful and rules that can be enforced. Pupils and staff must know the rules. The deputy head teacher is in charge of school discipline but the school daily routine is handled by the teacher-on-duty assisted by the prefects.

The system of punishment should be clearly established and punishments fairly and consistently applied. Two books are recommended for record purposes: the major and the minor offence books (Republic of Kenya, 1975:14-15). All major offences are dealt with by the head or the deputy and recorded in the major offence book that is kept in the office. All minor offences are dealt with by teachers and/or the teacher on duty and recorded in the minor offence book that is kept in the staff room.


The Legal Framework for Kenya’s Education System

- Legal Notice No. 84/1967 and 36/1972: The Education (Board of Governors) Mombasa Polytechnic Order established a BOG for the Mombasa polytechnic specifying its corporate status, membership and function.

- Legal Notice No. 59/1972 and 207/1973: The District Education Boards Regulations. DEBs were established under Section 28 - 33 of the Education Act (Republic of Kenya, 1968). The Legal notices established a DEB for each district with jurisdiction in respect of all maintained and assisted primary schools situated within the district in which it is established and regulates the functions of the DEB in promotion of education and maintenance of standards within the area of jurisdiction.

- Legal Notice No. 105/1976: The Kenya Institute of Education Order. KIE was set up in 1964 but established under 23 (2) of the Education Act (Republic of Kenya, 1968). The legal notice regulates the functions of the institute and established a council for the institute providing for its membership.

- Legal Notice No. 190/1978: The Education (School Committees) Regulations. Under Sections 9 and 37 of the Education Act (Republic of Kenya, 1968), the management of a primary school was to be conducted by a school committee established by a DEB or Municipal Council. The legal notice regulates the membership and functions of a school committee duly established.

- Legal Notice No. 242/1978: The Education (Board of Governors) Kenya Technical Teachers College Order established a BOG for KTTC and regulates its functions.

- Legal Notice No. 234/1978 and 166/1979: The Education (Board of Governors) Kenya Science Teachers College Order established the KSTC Board with corporate status, provided for its membership and regulated the functions of the board.

- Legal Notice No. 262/1993 and 263/1993: The Education (BOG, Non Teaching Staff) regulations sets out the regulations governing non-teaching staff employed by BOGs and allows the BOGs a union of their choice.

- Legal Notice No. 56/2001: The Education (School Discipline) (Amendment) Regulations, 2001 of 13th March, 2001. This was issued in accordance with Section 37 of the Education Act. In effect, it banned the use of corporal punishment in schools.

- Sections 34-35 of the Education Act (Republic of Kenya, 1968) concern the use of public funds. The Audit section of the Ministry of Education gives detailed instructions on keeping and maintaining books of accounts.

Some of the following Circulars should be available and helpful to schools:
The Legal Framework for Kenya’s Education System

- Accounting Instructions No.14/9 of 29th September, 1969
- AC/INT/03/86 of 26th June, 1970
- AC/INT/03/114 of 27th August, 1970
- AC/INT/03/124 of 7th October, 1970
- S/19/10TPY/3 of 5th July, 1971
- AUD/EXP/01/10 of 23rd July, 1971
- AUD/CIR/23 of 4th November, 1971

By 1970, secondary education had experienced enormous growth. This was mainly due to the expansion of *harambee* or self help schools built on community basis. This in turn meant an even enormous financial investment.

**Table 2.1.: Expansion in Secondary Education, 1965 - 1970**

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Secondary Schools</th>
<th>Secondary Enrolment</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Maintained</td>
<td>Assisted</td>
</tr>
<tr>
<td>1965</td>
<td>158</td>
<td>28</td>
</tr>
<tr>
<td>1966</td>
<td>178</td>
<td>21</td>
</tr>
<tr>
<td>1967</td>
<td>186</td>
<td>20</td>
</tr>
<tr>
<td>1968</td>
<td>213</td>
<td>19</td>
</tr>
<tr>
<td>1969</td>
<td>244</td>
<td>19</td>
</tr>
<tr>
<td>1970</td>
<td>281</td>
<td>19</td>
</tr>
</tbody>
</table>

♦ The University of Nairobi Act Chapter 210 of 1970 established the first National University, the University of Nairobi. It provided for its control, government and administration. It also established Kenyatta University College as a constituent college of the University of Nairobi. This was repealed by the University of Nairobi Act (1985) to provide for the establishment of constituent Colleges of the University to enhance management within the University.

♦ In 1970, a Commission of Inquiry, the *Ndewga Commission* (Republic of Kenya, 1971) was appointed to look into the working conditions of the civil servants and how education goals could be integrated to accelerate national development. It made several recommendations concerning education and the teaching service. It recommended an education that promotes national unity as well as culture and social equality. Further, it recommended that DEBs responsible for the administration of primary education be
established at an early stage. It also recommended an overhaul of the inspectorate system. On purchase and distribution of primary school equipment, the commission recommended that this should be decentralized. The commission was disturbed by the academic oriented 7+4+3+2 education system and the failure by the system to produce the much-needed technical, commercial and agricultural personnel to effectively contribute to economic and national development of the nation. It therefore recommended that the diversification of the secondary school curriculum be expanded to include technical and vocational subjects. It also recommended an increase in primary teacher training colleges and the curriculum be reviewed. Following the Ndegwa commission, the TSC was reorganized and strengthened.

♦ The Bessey Report (1971) studied the curriculum development in Kenya. The Bessey mission noted that much of the curricular was too academic, inadequate and irrelevant and tended to neglect practical and creative subjects. As a result, it emphasized the need to broaden the primary and secondary school curriculum and a rapid expansion and enrichment of teacher training colleges. It highlighted the need to review the staffing policy at all levels of the education system and that considerable changes be made in examination content and structure.

♦ In 1971, a presidential decree outlawed primary education fees in ASAL areas.

♦ The Wamalwa Committee (Republic of Kenya, 1972) set up in 1971 scored the need and role of university education in creating manpower and the government in turn expanded and heavily subsidized university education such that it was almost free in terms of direct costs borne by the government.

♦ The Industrial Training Act CAP 237 of 1972 regulates the training of workers in industry and established the National Industrial Training Council and the Industrial Training Levy.

♦ On 12th December in 1973, President Jomo Kenyatta, through a decree, announced Free Primary Education for the first four years of schooling in primary schools that is standards I–IV. The decree went further and provided a uniform structure of fees for those
pupils in standards V–VII throughout the Republic. This was implemented in 1974 leading to massive enrolment. For example, enrolment in primary schools rose from 1.8 million in 1973 to 2.8 million in 1974 even though there was no machinery such as increase in the number of teachers or classes put in place to cater for the sudden increase (Sifuna, 1980). Bogonko (1992) captures the increase in standard I enrolment from 379,370 in 1973 to 958,980 in 1974, an increase of 153%. In 1978, former President Moi extended FPE to class seven (7).

♦ In 1975, the Ministry of Education prepared a Manual for Heads of Secondary Schools in Kenya (Republic of Kenya, 1975) to provide in a compact and convenient form various aspects of school administration. The Manual clearly emphasized the enormous responsibility placed on the head of a school and elaborated on the duties of the head, deputy, heads of departments, subject heads, subject and class teachers, housemaster and the career’s masters. It further clarified on the school administration and records, Finance and discipline.

♦ The National Committee on Education Objectives and Policies (Republic of Kenya, 1976) known as the Gachathi Report of 1976 recommended the extension of free primary education to upper levels, standard 5-7 by 1980. By 1965, harambee secondary schools constituted one-third of all the secondary schools in Kenya (Sifuna, 1991:165). The Gachathi report recommended that harambee schools should be integrated into the national education system to improve the quality of education offered in these schools. It emphasized practical oriented subjects and suggested a restructuring of the education system to 9 years of primary education, 4 years junior secondary and 2 years higher and 3 years minimum university (9-4-2-3 system). The report recommended that teacher education needed to be greatly expanded and improved upon to improve and maintain the quality of education. It recommended the promotion of teachers on merit that led to the revision of regulations on the promotion of teachers in 1980. It also recommended the need to train teachers in guidance and counselling. The Gacathi report highlighted the need to shift resources to directly productive activities in Agriculture production and related industrial and commercial activities to generate increased resources for education and other services. It noted that the tremendous expansion of education was being achieved at the cost of quality and relevant education.
♦ **The National Council for Science and Technology Act (1978)** established a body to coordinate research in Science and Technology and to advise the government on relevant policy issues.

♦ In 1979 the **School Milk Programme** was introduced following a Presidential decree in December 1978 directing that all primary school children be supplied and provided with free milk every week. As a result, there was a significant increase in pupil enrolment in schools.

♦ The Presidential directive of 1979 led to the established **Parents’ Associations** (also referred to as Parents Teachers Associations) to collect development funds through voluntary contributions and helps build schools.

♦ **The Kenya National Examinations Council Chapter 225 (A) Act of 1980** (Revised 1981) established a national body the KNEC to conduct, administer national examinations and award Certificates and Diplomas to successful candidates. Before the breakup of the East African Community in 1977, there was one examination body, the East African Examinations Council that was formed in 1967 to replace the Cambridge. The KNEC also formulates rules and regulations regarding examination administration and conduct.

♦ **The Kenya Literature Bureau Act of 1980** established a bureau to publish, print and distribute books and other educational materials. This was meant to facilitate the production of low-cost books and other materials and make them available for distribution throughout Kenya. It was also meant to promote, encourage and assist Kenyan authors through financial incentives or otherwise and make available for general readership works of interest and value to the public.

♦ In 1980, the **Report of the Civil Service Review Committee** also known as the Waruhiu Committee was released. The committee noted with concern that a number of recommendations made in the Ndegwa (Republic of Kenya, 1971) and Gachathi reports (Republic of Kenya, 1976) had not been implemented and among them were teachers’ salaries and promotions. It proposed new salaries for teachers and that the terms and conditions of service were to remain the same as those of the civil servants.
The Presidential Working Party on the Establishment of a Second University (Republic of Kenya, 1981) known as the Mackay Report was established to prepare detailed plans and make recommendations on the decision of the government to establish a Second University in Kenya. The working party found overwhelming support for the establishment of a University that was technically oriented and technically biased. However, academic studies at the proposed university were to be blended with social-cultural instruction and orientation. The working party found a strong demand for continuing education at university level and recommended the establishment of a college for continuing education as part of the second university. It recommended the lengthening of university education by one year and made recommendations on the restructuring of the education system from 7+4+2+3 to 8 years of primary education, 4 years of secondary and 4 years minimum of University education (8+4+4). Other post-secondary training institutions were to be expanded. It also highlighted the need for a diversified school curriculum and emphasis on pre-vocational and technical skills. The working party recommended the establishment of a Council on Higher Education to coordinate university and post-secondary education in the country. As a result, the Commission for Higher Education (CHE) was formed in 1985.

In 1982, the government accepted the recommendation to change from 7+4+2+3 education system to 8+4+4 and the then Ministries of Basic and Higher Education were to implement the same in 1985 with the introduction of Standard 8 classes. The Certificate of Primary Education (C.P.E.) was to be replaced by K.C.P.E. and the first examinations were attempted in 1985. In January, 1986, the Form ones joined the secondary cycle and sat for their Kenya Certificate of Secondary Education (K.C.S.E.) that replaced the Kenya Certificate of Education (K.C.E.) in 1989. 1989 also marked the last Kenya Advanced Certificate of Education (K.A.C.E.) and the end of the old cycle. The students joined the university in 1990.

The Moi University Act of 1984 established Moi University as the Second National University. In 1990, a legal Order established Maseno College as a constituent college of Moi University.

In 1980, the Second Report of the University Grants Committee (The Kiano Report) was set up to examine the estimates and expenditure set out in the development plan of the
University of Nairobi for the period 1979-1983 and to consider the scale of expansion including academic and residential facilities proposed by the university in the light of the estimates.

♦ **The Universities Act of 1985** Cap 210B was enacted to provide for the advancement of university education in Kenya. It established the Commission for Higher Education (CHE), a body corporate responsible for the advancement of university education and to regulate University education in Kenya. The functions of the CHE are: planning, programming and financing of public universities; co-ordination of admission processes, the accreditation of universities; and, public relations.

♦ **The University of Nairobi Act (1985)** repealed the University of Nairobi Act of 1970.

♦ **The Kenyatta University Act of 1985** established Kenyatta University as the third National University.

♦ In 1985, **Report of the Civil Service Salaries Review Committee** or the Ramtu Commission was set up to again review the salaries of civil servants and teachers.

♦ In 1986, the Government released **Sessional Paper No. 1 of 1986 on Economic Management and Renewed Growth** that stipulated the then Manpower Development policy following the introduction of structural adjustment programmes by the World Bank (see below). This aimed at several economic reforms and effective training for the total economy both formal and informal.

♦ Legal Notice No.17 of 1986 established the **Kenya Institute of Special Education** (KISE).

♦ **A Memorandum of Agreement Between Ministry of Education and Kenya Union of Domestic, Hotels, Hospitals and Allied Workers (KUDHEIHA Workers)** was signed in 1986. It clearly stipulates how the staff under employment of the BOG should conduct themselves. It is very important that the school has a copy of this agreement and that the Head teacher continuously refers to it in all cases of discipline involving the support staff.
♦ **The Egerton University Act of 1987** established Egerton University as the fourth National University.

♦ The **Kenya Education Staff Institute** (KESI) was inaugurated in 1981 but was accorded legal status through Legal Notice No.565 of 1988 to organize and conduct training in the administration and management of education programmes.

♦ In 1986, the **World Bank** (World Bank 1986) issued a very prominent document that was a turning point on Africa development and education entitled: “Sub-Saharan Africa: From Crisis to Sustainable Development.” This document suggested a need for change in macroeconomic adjustment that was to be followed by sectoral reforms with the introduction of Structural Adjustments Programmes (SAPs). Structural Adjustment Programmes (SAPs) is the name given to a set of economic policy reforms imposed on the developing countries by the Bretton Woods Institutions, that is the World Bank and International Monetary Fund (IMF) as a condition for receipt of loans. SAPs were developed in the early 1980s as a means of gaining stronger influence over the economies of debt-strapped governments. To ensure a continued inflow of funds, countries already devastated by debt obligations have little choice but to adhere to conditions mandated by the IMF and World Bank. SAPs are designed to improve a country's foreign investment climate by:

- Eliminating trade and investment regulations;
- Boosting foreign exchange earnings by promoting a free market economy, that is allowing exports; and,
- Reducing government deficits through cuts in spending.

Although they differ somewhat from country to country, certain measures are imposed. They typically include deep cuts to social programmes such as health, education and housing and massive layoffs in the civil service to reduce on government expenditure. SAPS have been heavily criticised as resulting in more poverty to these nations. This is because such radical reforms tend to hurt the poor through deep cutbacks in social programmes such as education and health through the introduction of user fees (cost sharing), privatisation of services and massive layoffs and cutbacks of social services.
These in turn lead to malnutrition, drop out from school and the recurrence of previously eradicated disease. These deepen poverty. The UN Economic Commission for Africa for instance provided a comprehensive and credible alternative to SAPs in 1989 in which it called for a reduction in the continent's reliance on external trade and financing, the promotion of food self-sufficiency and greater popular participation in economic planning and decision-making. But more was to follow.

♦ In 1988, the World Bank (World Bank, 1988) released another even more influential document targeting education in Africa, “Education in Sub-Saharan Africa: Policies for Adjustment, Revitalisation and Expansion”. The publication explicitly endorsed ‘user fees’ in an effort to meet education costs. Education was to be liberalized and those who wanted to have it or would be beneficiaries could as well meet the costs. In part, the document was meant to prevail upon African governments that were spending a lot of money on education to move towards a more liberal education system and entrench the SAPs. The other part that was largely unspoken was to coerce governments that were reluctant to adopt any changes such as reduction in civil service due to political and social pressure from within and prevail upon them to change. All this was tied to future donor support. As a result, the Kenya government launched the Presidential Working Party on Education and Manpower Training for the Next Decade and Beyond.

♦ The Presidential Working Party on Education and Manpower Training for the Next Decade and Beyond (Republic of Kenya, 1988a) known as the Kamunge Report suggested several changes in the education system. It recommended the strengthening and improvement of Teacher Advisory Centres (TACs) and the need to reduce on wastage occasioned by dropout and repetition. One of the most important issues that arose from the Kamunge Report (Republic of Kenya, 1988a) was the need for increased cost sharing in educational management and financing between the Government, parents and communities in the provision of education at all levels. The report and the ensuing report institutionalised cost sharing as a way of reducing the proportion of government expenditure in education. The government was to meet the salaries of teachers and education administration and fund some limited school facilities as parents paid for tuition, examinations, school activities and provided the textbooks. The community was to provide the physical structures such as classes and maintain them.
♦ The Kamunge Report (Republic of Kenya, 1988a) and the ensuring Sessional paper No. 6 of 1988 (Republic of Kenya, 1988b) laid out strategies for implementation of the 8-4-4 system of education. One of the strategies was the need for the Government to reduce the share of its budget to education by shifting recurrent costs such as the provision of textbooks and other accessories in school to the parents and communities. The Government would provide and pay the teachers while schools have to depend entirely on parental and community contribution for all other costs. The prohibitive fees and other levies charged by educational institutions have had a negative impact and reduced access to primary and secondary education. The cost of numerous textbooks has added to the cost. Since it was implemented, cost sharing with the existing poverty has greatly contributed to the decline in enrolment and attendance in school. Enrolment in pockets of poverty in both urban and rural areas and especially in ASAL has been greatly affected. At times, parents simply cannot afford to pay the levies and/or fees. Obviously, this was in line with the World Bank but as a contradiction, it recommended that all parents who had children of school going age especially girls should be required to send them to school. This was to ensure that majority of children had access to education and were enrolled in school. Further, the report recommended that parents should be required to retain children in school for the whole duration of primary education. This would ensure attendance in schools and the attainment of basic education. Though the government accepted these recommendations, the Koech Report (Republic of Kenya, 1999:72) established that the recommendations were not implemented. It was impossible to force parents to take children to school when they could not afford.

♦ The Universities (Establishment of Universities, Standardization, Accreditation and Supervision) Rules, 1989 set out procedures to be followed when establishing private universities. The Rules also set out the process of accreditation leading to the award of charter by both existing and proposed private universities. Universities are classified as Public and Private Universities.

Public Universities are established by Acts of Parliament. They are:

- University of Nairobi (1970)
- Moi University (1984)
- Kenyatta University (1985)
Private Universities are established in accordance with the Universities Act 1985 CAP 210B and Legal Notice No. 56, The Universities (Establishment of Universities (Standardization, Accreditation and Supervision)) Rules, 1989. They fall into three categories (as in January, 2000):

a) **Chartered** Universities. These universities have been fully accredited by the CHE. They are:
   - The University of Eastern Africa, Baraton
   - The Catholic University of Eastern Africa
   - Daystar University
   - Scott Theological College
   - The United States International University
   - The African Nazarene University
   - The Kenya Methodist University

b) **Registered** Universities.
   These are universities that were offering degrees before the establishment of the CHE in 1985. They were issued with Certificates of Registration after fulfilling the requirements set out in the Universities Rules, 1989. They are:
   - The East Africa School of Theology
   - The Kenya Highlands Bible College
   - The Nairobi Evangelical Graduate School of Theology
   - The Nairobi International School of Theology
   - The Pan Africa Christian College
   - St. Paul’s United Theological College

c) **Universities Operating under Letters of Interim Authority**
   These are universities that applied to the CHE for their establishment and fulfilled requirements as stipulated in the Universities Rules, 1989. They were issued with Letters of Interim Authority by the CHE.
They are:

- Kabarak University
- Gretsa
- Strathmore
- Agha Khan
- Kiriri Women’s University of Science and Technology
- Great Lakes University of Kisumu (GLUK)

The CHE is working with them towards the issuance of Charters. Only these universities under the two categories of public and private universities are authorised to advertise and/or mount approved degree and postgraduate certificate and diploma programmes. It is an infringement of the Universities Act, 1985 and Universities Rules, 1989 for a private institution to advertise and/or mount university level programme(s) without obtaining a letter of interim authority from the CHE. Proposals to establish private universities are received by the CHE. Institutions are supposed to complete Form ACC/CHE 3 in accordance with Section 6 (2) of Universities Rules, 1989.

♦ **The Presidential Committee on Student Unrest and Indiscipline in Kenya Secondary Schools** (Republic of Kenya, 1991) known as the Sagini Report was set in 1991 to look into the causes of strikes and unrest in schools and to make proposals and recommendations aimed at eliminating these strikes. The first strike recorded strike in Kenya occurred in Maseno School in 1908 when the boys refused to participated in manual labour and pressed for more reading and writing. Since then, numerous strikes have occurred in schools and educational institutions causing concern. Some have been tragic resulting in loss of human life (St. Kizito, Nyeri High and Kyanguli). This culminated in the St. Kizito tragedy (1991) when 19 students died, the burning of three prefects to death at Nyeri High School (1999) and later the Kyanguli tragedy (2001) when 68 students lost their lives.

♦ **The Jomo Kenyatta University of Agriculture and Technology (JKUAT) Act of 1994** established the fifth Public University.
♦ In 1994, the Jomo Kenyatta Foundation published an **Education in Kenya Information Handbook** (Republic of Kenya, 1994b) that gave useful information on the organization of education in Kenya.

♦ Recommendations to appoint a **National Task Force on Gender Education and Training** (NTFGET) and a Unit for Gender and Education (UGE) was made during a National symposium on the Education of Girls’ held in Machakos, Garden Hotel, 21st – 24th March, 1994. During the workshop, it was recommended that a unit for gender and education be established. In 1995, the UGE was established with members drawn from various departments and institutions of education. These included: Ministry of Research, Technical Training and Technology (MRTTT); TSC; KNEC; Family Life Education Project; and, sections of the Ministry of Education that included Planning, Primary, Secondary and Teacher Education and non-formal education. The Minister for Education in September 1995 appointed members of the NTFGET and it was launched on 25th January, 1996. It was to act as an advisory body to the Government on issues related to gender and education. These included factors that affect access, attendance, retention and performance.

♦ The **Commission of Inquiry into the Cult of Devil Worship** (Republic of Kenya, 1995a), the Archbishop Kirima Report was set up to investigate into the allegations of the existence of the cult of devil worship, and to establish the extent to which the cult had influenced the learning institutions among other elements of society.

♦ In 1995, the Mungai Commission was set up to look into the **Future Development of University Education in Kenya** (Republic of Kenya, 1995b). It looked into all aspects of university education and made proposals to improve both the administrative and financial management of universities.

♦ **The Master Plan on Education and Manpower Training, 1997-2010** (Republic of Kenya, 1998) produced by the Ministry of Education has a consolidated approach in the provision of education and training to make it more cost-effective and affordable. It highlights how to go about evolving feasible objectives, policies, programmes, strategies and activities to ensure efficiency and effectiveness.
A Commission of Inquiry into the Education System of Kenya (Republic of Kenya, 1999) known as the Koech Commission or Report was appointed under Gazette Notice numbers 2291 and 2292 of 14th May, 1998 to look into issues related to educational goals, objectives, structure and content of education. It was also to look into the management, co-ordination and financing of education at all levels. The commission was particularly mandated to recommend ways and means of enabling the education system facilitate national unity, mutual responsibility, accelerated industrial and technological development, life-long learning and adaptation of education in response to changing circumstance. Kenya targets industrialization by 2020.

The Commission concluded that:

- Though the goals of education have evolved over the years, their achievement had been hindered by factors that were not necessarily beyond the systems control
- There was need to strengthen the moral fabric of society by adoption of a practical approach in the teaching of Religious and Social Education and Ethics
- Technical education had taken a downward trend
- Growth and development in education had been hindered by the centralisation of decision making in formal education at the MOE headquarters coupled with poor co-ordination of education services by various Ministries
- Though the objectives of the 8-4-4 system in the Mackay Report (Republic of Kenya, 1981) were laudable, the implementation process was haphazard and poorly coordinated right from the initial stages
- Other sections of the education system such as learners with special needs, early childhood education, ASAL and pockets of poverty had been neglected
- The quality of university education had been lowered by the immense increase in population
- The Education Act (Republic of Kenya, 1968) was lacking in many aspects.

The Koech Report (Republic of Kenya, 1999) came up with 583 recommendations highlights of which were:

- The introduction of a manageable curriculum at all levels of education that is not a burden to the learner and the reduction of examinable subjects at KCPE from 8 to 5.
The other subjects were to continue to be taught but not examined. In 2001 KCPE, candidates were examined in 5 subjects. These are: English, Kiswahili, Maths, Science and GHC (Geography, History & Civics and Religious Education).

- The expansion of basic education from 8 years (primary education) to 12 years (secondary education) to enable every child the opportunity to attain a minimum secondary education. Consequently, it highlighted the need to eliminate existing disparities in education and equity in education through provision of universal and compulsory basic education

- Expansion of post-secondary educational opportunities. Subsequently, it recommended the introduction of a modular learning approach and credit accumulation in post secondary education to allow for credit transfer from one institution to another

- Expanded alternative and Continuing education


- It recommended a new system of education: Totally Integrated Quality Education and Training (TIQET). This is education and training that is total, integrated and have enhanced quality as an alternative to the numerical titles and structures of 7+4+2+3 or 8+4+4.

- **Maseno University Act (2000)** established the sixth public university.


For example, the first and second development plans (1964-1970; 1970-1974) reiterated the emphasis on expansion of education to provide the necessary manpower, economic
development and Kenyanization in all sectors in line with the education objectives. The National Development Plan, 1970-1974 (Republic of Kenya, 1974) envisaged massive educational expansion at all levels of education system. In regard to university education, the government proposed to withdraw grants allocated to university students in favour of a loans scheme since the students were the beneficiaries of the education. This was reiterated in subsequent Development Plans, 1974-1978 and 1979-1983). The third development plan (1974-1978) tended to put an end to the transition stage and noted that the education was too academic oriented and hinted on the need for a restructuring of the education system that came in the form of the Gacathi commission (Republic of Kenya, 1976). The National Development Plan, 1979-1983 (Republic of Kenya, 1979) included strategies for satisfying the basic human needs of vulnerable groups. In 1994, the Ministry of Education introduced a policy of allowing girls who get pregnant while in school to continue with education. On gender and development, gender, education and literacy, the National Development Plan, 1994 – 1996 (Republic of Kenya, 1994:255) stated that the government would endeavour to, among other things, create comprehensive data on the situation of the girl child in Kenya with particular reference to poor urban, poor rural, nomadic, girl child, school dropouts and adolescent mothers and promotion of use of such data for appropriate learning; and, start a programme for deliberate monitoring and follow-up of school drop out with particular reference to adolescent mothers and immediate policy change towards facilitating their rehabilitation and re-entry into the education system. It is estimated that 10,000 - 13,000 girls drop out of school every year due to teenage pregnancy (Division of Family Health, 1988; Okumu & Chege, 1994; Njau & Wamahiu, 1994; Wango, 2001). This policy was and is expected to facilitate and enable such teenage mother’s re-entry to the formal school system, curb drop out and push out and further increases attendance and participation rates for girls. In addition, functional and operational guidance and counselling services have been established and enhanced in primary and secondary schools and all educational institutions to assist and enable pupils and students especially girls to cope with life problems.

♦ In 2001, corporal punishment was abolished through Legal Notice No. 56 of 13th March, 2001. This form of punishment was seen as one way that discouraged children from attending school due to the fear instilled by this form of punishment. In particular, pupils and students were punished for petty offences, failing to do their homework and for failing in a subject. It is expected that the new school environment will ensure greater and more
enhanced pupil - teacher interaction and improve positively and constructively the teacher - pupil relationship to enhance effective learning.

♦ On 25th July 2001, the Minister for Education appointed a Task Force led by the Director of Education to solicit information and brainstorm with stakeholders and make recommendations on the following issues: discipline in secondary schools; strategies for achievement of UPE and EFA by the years 2005 and 2015 respectively; and, ways of increasing transition rate from primary to secondary. The Task Force on Student Discipline and Unrest in Secondary Schools (Republic of Kenya, 2001) met with representatives of stakeholders from all districts at seven centres and received oral and written submissions. It came up with 168 recommendations.

Major recommendations included:

➢ That the MOEST should intensify the involvement of other stakeholders in education policy formulation
➢ That a research bureau should be established at the MOEST to undertake research and planning in education and that research findings should be the basis for policy formulation and planning
➢ That field officers should be capacitated to disseminate information on education and centres established to facilitate free flow of information on education
➢ That recommendations of any Task Force should be implemented
➢ That the review of the Education Act, 1968 (Revised 1980) should be concluded and harmonised with relevant legal statutes
➢ That DEBs be mandated to coordinate and monitor the disbursement of funds and other material resources to schools
➢ That inspection reports should have a clear follow-up plan and that PDEs and DEOs should take prompt action on these reports and inform the Director of Education as appropriate
➢ That Mock examinations should be restricted to examination classes (Standard 8 and Form 4)
➢ That private tuition should be banned
➢ That KNEC should not rank schools and should revise the regulations in regard to class attendance
➢ That KESI should be revitalized
➢ That Guidance and Counselling training should be revitalized
➢ That the rules regarding recruitment, deployment and promotion of teachers should be strictly adhered

♦ In 2001, the **Children’s Act** (Cap 586) was enacted on November 29th 2001 and received Presidential Assent on 31st December. It officially came to force on 1st March 2002. The Act stipulates that every child is entitled to education and puts the responsibility on the government and the parent:

(1) *Every child shall be entitled to education the provision of which shall be the responsibility of the government and the parents*

(2) *Every child shall be entitled to free basic education which shall be compulsory in accordance with Article 28 of the United Nations Convention on the Rights of the Child*

‘Education’ means the giving of intellectual, moral, spiritual instruction or other training to a child. By a ‘child’ means any human being under the age of eighteen years and a ‘child of tender age’ is a child under the age of ten years. The act protects children from child abuse and prohibits early marriage. By ‘Child abuse’ includes physical, sexual, psychological and mental injury. ‘Early marriage’ means marriage or cohabitation with a child or any arrangement made for such marriage or cohabitation. Other proposed bills such as the Sex Offenders Act may then further reinforce human rights and these rights of the child.

♦ In an effort to improve education further, a three day **National Conference on Education and Training** whose theme was *Meeting the Challenges for Education and Training in Kenya in the 21st Century* was held at the Kenyatta International Conference Centre from 27th to 29th November, 2003. It brought together all key stakeholders in education. The conference highlighted the issues in the sector and brought them on the table, among them;

- How to provide quality education and training at all levels;
- Addressing past inequities and disparities;
- Increase access and improved education for all, especially the youth; and,
- Improved safety in all learning institutions.
The conference provided useful input, which the Government should use to improve on quality and access to education using a participatory approach and partnership with other stakeholders in the sector. The government through Sessional Paper No. 1 of 2005 committed itself to develop education sector policies and implement strategies to ensure the provision of relevant and quality education and training to all Kenyans.

- Effective October 2004, the post of Director of Education was replaced with an Education Secretary. There are five directors in charge of various sections: higher education; basic education; quality of education and standards (inspection of schools); technical education; and, projects and policy implementation.

- The Government Sessional Paper No. 1 of 2005 on A Policy Framework for Education, Training and Research, proposed that Kenya would continue to pursue the 8-4-4 system of education and emphasized on quality and relevance of education rather than the system. It sought the reduction on the content of the subjects to make them more manageable. Further, it proposed in the long-term to expand basic education to include secondary schooling that in effect meant that a child will be entitled to at least 14 years of schooling to be considered to have gone through basic education (2 years pre-primary, 8 years primary and four years of secondary / technical education). Higher education would then consist of undergraduate and postgraduate programmes, as well as technical, vocational and industrial training.

- The Kenya Education Sector Support Programme (2005-2010) Delivering Quality Education and Training to all Kenyans launched in July 2005 has adopted a sector wide approach to programme planning (SWAP); this aims at engaging all stakeholders in education so as to attain a national ownership of education. This in turn will enable the alignment of education objectives and approaches, a more strategic and managerial approach to education than experienced before. This will also allow more consultation. KESSP is based on the rationale of EFA and the MDGs. Such a focus on education by the Ministry may be compared to the MPET in 1998 and it would be hoped that KESSP would go hand in hand with a review of the education policy as the foundation of a strong based policy framework.
2.3. Critical Review
After independence, the government was faced with several challenges among them:

- The need to Africanize the economy and the civil service;
- The need to spur rapid economic growth;
- The need to provide adequate infrastructure and equipment in all areas of the country and economy especially in social services such as education, health and security; and,
- The need to provide quality education to a majority of Africans who had none.

A lot of investment was put in education in a need to make the population more productive and to strengthen their skills and abilities to provide the much-needed African workers in the civil service and elsewhere. In addition, the colonial government had neglected the quality of education given to the Africans and the independent state had to bridge the gap through rapid expansion of educational services and programmes. A relevant curriculum to ensure quality of education was at the core. Over the years, the country has experienced a tremendous growth in education resulting in an increase in enrolment at all levels. But the growth has always been unprecedented and often, no policy comes in handy to rectify the situation. For example, the over enrolment in standard one as a result of FPE in 1974 and 2003; Form one intake doubled between 1964 from 8,956 to 15,169 in 1968 (Sifuna, 1980:267); and, the university double intake in 1987 were all unprecedented.

Even when the government has sought to address the challenges that face the education sector from time to time, this has been implemented in piecemeal and in ad hoc manner and the would have been benefits have not been fully realized. For example, as early as 1972, it was noted that the academic oriented formal education could not meet the social economic needs of the nation and the International Labour Organisation (ILO, 1972) recommended a restructuring of the school system to incorporate vocational subjects right from primary school. It also recommended that the period of primary education be lengthened by one or two years and redesigned basic education, a recommendation further made in the Gacathi Report (Republic of Kenya, 1976) that recommend 9 years of primary education and further modified in the Mackay Report (Republic of Kenya, 1981) that recommended 8 years of primary education. The Ndegwa Report (Republic of Kenya, 1971) raised similar sentiments on the failure of the academic curriculum to produce the much-needed technical, commercial and agricultural personnel for effective economic development of the nation.
The Legal Framework for Kenya’s Education System

The period 1974 – 1978 saw a rapid increase in enrolment at all levels as well as an increase in the number of educational institutions. A Ministry of Basic Education was established in 1979 that should have seen the refocusing on education but this served merely a political purpose. For example, following the introduction of free basic primary education in 1974, enrolment in Standards I-IV increased from 1.8 million in 1973 to nearly 2.8 million in January 1974 (Sifuna, 1980). The number of secondary schools increased over 3,000 in 2001 and approximately 4,000 in 2005 (Republic of Kenya, 2005a) while enrolment in public universities increased from 570 undergraduates and 3 graduate students in 1963 (Keller, 1980) to over 50,000 undergraduate students in local national public universities and another 5,000 in the 14 private local universities. There were an estimated 5,000 postgraduate students in Kenyan universities in 2004.

International conventions and conferences on human rights and education have had great implications on the education sector. These include:

- The Universal Declaration of Human Rights (1948).
- The Convention on the Elimination of All forms of Discrimination Against Women (CEDAW)
- World Summit for Children (1990)
- The Jomtien Conference on the World Declaration on Education for All (EFA) in March, 1990
- The World Conference on Human Rights (1993)
- The World Conference on Special Needs Education: Access and Quality (1994)
- The International Conference on Population and Development, in Cairo, Egypt (September, 1994)
- The World Summit for Social Development in Copenhagen, Denmark (1995)
- The Fourth World Conference on Women, The Beijing Declaration: A Platform for Action in Beijing China (September, 1995)
- The Mid-Term Meeting of the International Consultative Forum on Education for All (1996)
- The Fifth International Conference on Adult Education (1997)
- The International Conference on Child Labour (1997).
- World Forum on Education for All in Dakar Senegal in April, 2000
- Other influences such as World Bank and SAPs in the 1980s.

These have set certain standards, for example:
- Eliminating gender disparities in primary and secondary education by 2005
- Achieving gender equality in education by 2015

The politicization of the decision making process in the education sector in Kenya led to major political rather than policy decisions that have influenced the trends and patterns of education growth and policy formulation (Amutabi, 2003). These include the provision of FPE in 1974, 1979 and 2003 and the introduction of the 8-4-4 system of education. The role and contribution of educational professionals and thus important policy decisions has been marginalized impacting negatively on the consequent policy formulation, implementation and evaluation. Any would be feedback of the implementation of education policies that would allow improvement in design and implementation of laid out strategies is often completely negated or altogether ignored. These political interventions have been blamed for the crises in the education sector in Kenya (Amutabi, 2003).

The concept of cost sharing in the provision of education had always existed to before independent when communities build schools such as the Kikuyu Independent Schools Association (KISA) that established schools in Murang’a and Nyeri and similar associations elsewhere in the country. After independence, communities voluntarily provided land for building and put up several schools as the government provided the teachers. Secondary schools build in this way came to be referred to as ‘harambee’ (together) or self help schools. For example, there were fifty (50) harambee schools at independent but by 1974 there were six hundred (600) (Eshiwani, 1993:21). But the Kamunge report (1988a) and the consequent government paper (1988b) tended to institutionalize the cost sharing policy rather than introduce a new concept.
Education accounts for about 40% of government recurrent budget. The economy witnessed mixed performance since independence. For example, in the period 1964 to 1971, the gross domestic product (GDP) grew at an average of 6.5 percent per annum due to higher agricultural output but this slowed remarkably during the oil crisis of 1972 and 1979 that saw an increase in imported goods and raw materials. GDP growth remained below 5 percent in early 1980s and grew by less than one percent in 1984 following a severe drought. This slow growth continued in the 1990s. Between 1991 and 1992, there were high inflation rates caused mainly by large increases in money supply and bank credit and the political instability as a result of multiparty politics in Kenya. This culminated in the 1992 general elections. As a result of the stabilization and a liberalized environment, the rate of growth improved to 4.8 percent in 1995 and 4.6 percent in 1996. The country was again politically unstable leading to the 1997 general elections, and 1997 and 1998 also experienced a slow growth rate of 2.3 and 1.8 percent respectively. However, the rate of inflation declined from 11.2 percent in 1997 to 6.6 percent in 1998 as a result of the stabilized shilling exchange rate and the improved supply of food. In the mid 1980s, the government attempted to implement the structural adjustment programmes imposed by the Bretton Woods institutions. The emphasis was on stabilized and enhanced economic growth through:

- Enhanced monetary policy and budget rationalization
- Liberalization of foreign exchange through abolition of foreign exchange controls
- Liberalization of the economy through privatization of parastatals and promotion of private sector investment
- Recovery of agricultural production
- Promotion of both exports and imports

There was a slight improvement in economic growth but it was ironic that the SAPs aimed at reviving the economy but instead, the ordinary people were poorer and could not afford education resulting in a marked low enrolment in schools. For instance, enrolment rates reduced from about 105 percent in 1989 for primary to 88.8 percent in 1998 and from 30 percent in secondary education to 23 percent during the same period. Another issue is that government expenditure has not been matched with economic growth. For example, in the 1998/1999 financial year, expenditures grew by 137 percent while the recurrent budget grew by 83 percent. Expenditure on education continued to be leading with a share of 19.9% of the total development and recurrent expenditure. A bigger percentage of the education recurrent
budget goes to general administration and planning that accounted for 84.2 % in the 1998/99 financial year.

Public spending on education has increased tremendously. For instance, recurrent expenditure on primary education rose from 55 percent in 1995 to about 57 percent in 1998. Recurrent expenditure on secondary education increased slightly from 21 percent in 1995 to about 27 percent in 1997. Gross expenditure for the Ministry of Education rose steadily from Kshs. 66,417.93 million in the 2002/2003 financial year to Kshs. 80,234.74 million in the 2003/2004 financial year, an increase of 20.8%. This was mainly due to the implementation of the Free Primary Education (FPE) programme introduced by the newly elected government under a new party in power, the reformist National Rainbow Coalition (NARC) in 2003. For example, development expenditure on primary education increased from Kshs. 796 million in the 2002/2003 financial year to Kshs. 5,812 million in the 2003/2004 financial year and accounted for 68.9 % of the total development expenditure in education. This was again due to FPE and the teachers’ salary increments as pledged by the NARC government. By January 2005, the government had released Kshs. 16.1 billion since the inception of the programme. Thus, the amount of money conferred on this endeavour is a big investment and the ripple effects should be a big endowment to the future of this country. According to the Koech Report (Republic of Kenya, 1999:260), the governments spends on average Kshs. 2,774 per primary school child, Kshs. 9,418 per secondary school student and Kshs. 115,812 per university student giving a ratio of 1:3:4. Households were estimated to spend on average Kshs. 900 at primary level per year and Kshs. 10,000 per year at the secondary school. At the secondary level, nearly two thirds of this was in form of school fees. The report indicated a continuing shift of the financial burden to the parents and households and away from government and this was expected to continue. In effect, there is a need for the central government to ensure that all the monies remitted to schools are made full use of.

2.4. Conclusion

It is unfortunate that the colonial legacy has continued to be a plague in independent Kenya. For instance, in pre-independent Kenya, numerous commissions that achieved little in terms of an education policy ran education and the government has continued in numerous commissions and task forces even when the need for an education policy and philosophy is imminent. Like in the colonial days, crucial recommendations made by certain commissions have been ignored or sidelined. For example, the Ndegwa Commission (Republic of Kenya,
The provincial administration that was established, as part of colonial administration has never been abolished and these officers (Provincial Commissioner and District Commissioner) chair the education boards in their areas of jurisdiction. The post of a Director of education created in 1908 was not abolished until October 2004 when the Education Secretary replaced it.

Despite the efforts made to provide education to a larger population, the declining and limited government resources and poverty have made it difficult for the education sector to meet the broad outlines and goals as would have been expected. This coupled with politicization of issues to do with education has been translated to lack of a clear education policy and poor implementation of existing innovative policy guidelines and hence the fluctuation in achievement in this important sector. That international conferences and conventions have kept the government on its toes should not have been a replacement of the government to realign a policy on education for the greater good especially when education continues to receive such financial resources, the highest in any sector. For example, the free primary education programme started in January 2003 had received Kshs. 16 billion in a span of two years by January 2005. An overhaul of the entire education system including the administration and management, structure and laws is an absolute necessity.
PART THREE
RECOMMENDATIONS, CONCLUSIONS
AND FINAL REFLECTIONS

3.1. Introduction
The present Kenya Education Framework has its basis in colonial education. The dawn of independence brought a lot of enthusiasm for education and the existing framework was built on this need and the system has continuously been modified to reflect the needs and aspirations of national development. On the one hand, traditional African education was inclusive, communal and relevant. On the other hand, colonial education was exclusive and exploitative. However, there is an absolute need for the MOE to review and disseminate the contents of the education framework to all stakeholders in education so that the education needs can reflect the national objectives. All education institutions must be aimed to enhance the management capacity, human resource utilization and increased access and equity of resources. Access to quality and relevant education is a major challenge. It is obvious that stakeholders in education are and continue to be keenly involved in the formulation of new policies. This way, it is argued, a review would comprehend the aims and objectives of the Kenyan Education and national aspects.

3.2. Emerging Issues
It must be noted that education in Kenya is associated with social and economic development. The management and administration of education including financing of education, planning and coordination of education including training will continue to preoccupy Kenya where about 40% of the government expenditure is spent on education. Improvement in delivery of services must be assured in this essential service. The Ministry of Education has produced several documents. These include: the Manual for Heads of Secondary Schools (Republic of Kenya, 1975) which clearly guides the head on various crucial administrative aspects; MPET (Republic of Kenya, 1998) that critically examined various aspects of education; and, the Handbook for Inspection of Educational Institutions (Republic of Kenya, 2000), the first formal inspection guide ever produced in Kenya. These are valuable documents to the education process. Perhaps, the Ministry should proceed along this line and produce handbooks that enable schools interpret and implement different
policies and strategies such as financial management, teacher professional training, guidance and counselling, gender and education, special needs education and UPE and EFA goals and initiatives. The future management of schools will lie with the boards of governors (BOGs) that will have to be established in all primary, secondary and tertiary institutions. Parents and school sponsors will play a major role as members of the BOGs that will replace the PTAs and school management committees.

National examinations and their role in the overall system will need to be reviewed. The KNEC had been ranking schools in national examinations (KCPE and KCSE). This system has been criticised by education officers who argued that the mean score diminishes pupils and students and concentrates on schools, notably the mean score. This in turn had led to cutthroat competition, in which pupils and students were forced to repeat the examination classes to improve on the overall grade, read mean score. In year 2000 - 2005 national examinations, the MOE ranked pupils and students, a system many feel will finally bring focus in teaching and learning on the learner as befits the purpose of learning and education.

Aspects of education policy administration that emerged from the various education commission reports and task forces will need to be addressed. For instance, the issues in secondary school management highlighted by the Task Force on Student Discipline and Unrest (Republic of Kenya, 2001:9-23) need to be addressed at one time (or via another commission if present trends is anything to go by!). For example, the Task Force was informed that policy pronouncements are often in response to crisis; previous reports and recommendations had not been made public; and; there was no effective monitoring system in place to ensure the implementation of policies. The Task Force was also duly informed that non-educationalists often make statements on education that would complicate what in essence is the official policy. In particular therefore, the MOE should produce a handbook for all education officials / managers of educational institutions. Also, clear guidelines should be issued on particular issues such as school fees and tuition if any and the role of PTAs and BOGs to reflect the Government education policy.

There is an absolute need for closer collaboration with education implementers including head teachers, school sponsors and communities and non-governmental organizations to ensure that areas of need are identified, prioritized and addressed in good time. Private companies will in future provide grants and scholarships for studies, research and school
activities such as drama, games and sports and science congress. Teacher education will need to be coordinated with the providers. Apparently, the universities are too theoretical, more research oriented and academic orientated and detached from actual teaching and learning process. There is perhaps too much of academics including lecturing and academic research rather than practical oriented teaching and learning that should focus and impact directly on the learner rather than the teacher.

One of the government priorities will be a concern to make education affordable as it becomes accessible. This emancipates from the fact that basic education will include up to one year of early childhood education, both primary and secondary education or education up to 16 – 18 years and this will soon be the responsibility of the government. Measures to make education affordable might include tax exemption for educational materials such as books and computers and reduction in actual cost in schools. In future, schools will have to generate extra income from the community including the use of swimming pool, teacher’s houses, use of school hall and dormitories as sports and examination centres and for other social functions. But this must not be overdone such that schools forget their mission or the facilities are overrun. Schools will require to be more accountable and the future school manager and administrator, the head teacher (principal), will require better training, wider understanding of issues including policy, public relations and basic accounting skills. Communities will continue to assist in education.

The use of computers and information technology is in the future of education due to the massive technological expansion. ICT in education administration and management will obviously take centre stage and the MOE should issue clear guidelines at an early stage to avoid being ambushed by advancement in technology. Finally, HIV/AIDS poses a serious threat to the achievements made in education in Kenya. The MOE through the KIE has produced a syllabus for purposes of enhancing the teaching and learning of the danger posed by HIV/AIDS in schools and efforts on enhancing sex education must not be emotionally handled.

Monitoring and evaluation is a road worth taking to help improve the discipline of education so that it can be more valued and recognised as a profession maintaining quality of services and standards at all levels. The primary aim is to assist in decision-making rather than fault finding. Monitoring and evaluation should be systematic, consistent and practical with the
organisational structure inherent in all services and programmes. If conceptualised within such a framework, monitoring and evaluation can then be considered as existing on a continuum from classroom exercises to national examinations. It is naturalistic rather than controlled and it is intended for immediate use to help improve on the teaching learning process for example. At one end would be the formal formative evaluation and the traditional assessment so that the essential characteristics of planning at the level of the school or class are not entirely missed out. This will help to highlight the concept of evaluation so that it is not a unitary concept. Rather, it has a multiplicity of activities that include: service audit, account audit, quality assurance to maintain and improve on education standards, cost benefit analysis, effectiveness, cost-effectiveness and cost-efficiency, and the curriculum. Features of monitoring and evaluation are both pivotal in both design and utility of education services. Evaluation is therefore not just about national examinations; it is something that the community in particular and the government needs to increasingly turn its attention to.

Research in education will also tend to be more practical orientated so as to impact on policy. Research will need to observe and reflect on aspects that are meaningful to the school and that would help improve on aspects of education. Areas of exploration will include the curriculum, the teaching learning process and the professional development of all staff to improve on practice and the ultimate delivery of services. Programmes and activities introduced in the school and in education will need to be more focused and their anticipated benefits to the pupils and students, the school and in the education arena clearly drawn. Research will need to be more consistent and more involving, revolving and aim at improvement by drawing on best practices and on success stories rather than outlining major weaknesses in the system. Methods adopted in research will therefore tend to be more reliable and valid for credibility or plausibility of results. It will also be more participatory and involving by allowing participants to respond by use questionnaires, interviews in discussion forum, conference, seminars and focus group discussions so as to lead to more empowerment of both individuals and groups. This way, research will be expected to add more value.

3.3. The Future Directions of Education in Kenya

Education in the future will be governed by four factors. These are:
The concepts of political authority as expressed in the Party Manifesto that will exert on government influence as the party is elected to power. The education policy will be based on the following three other factors.

The changing needs of Kenya society that include:
- Pressure from international influence such as the growing human rights, citizenship education, lifelong education, democratic ideals and others
- Professional development
- The use of ICT
- Equity in educational opportunities
- Quality of education standards
- Practical education research

Economic factors including the rising cost of education that will increasingly focus government attention on basic education as individuals receiving higher education meet the costs

Improved education management and administration including finance, planning and coordination of education programmes and activities both by the MOE and its agents, private companies and donor communities involved in education and in individual schools.

This will ultimately lead to:
- Improved education management and administration leading to improved efficiency;
- More defined and structured education system;
- More accountability and transparency;
- Greater, increased and improved information flow and greater and enhanced statistical data that is current and that will be used to improve on that education; and,
- More participation by communities, parents and school sponsors especially at the level of the school and nationwide. This is reiterated in the KESSP.

Professionalism in the civil service and in the private sector will prevail and this in turn will put more pressure on education of the future for both specialized and better-equipped persons even as opportunities for education expand.
The functions of the MOE will have to be clearly defined and then clearly allocated to the different functional section and units. In principle, this is the formulation of policy directions and management of professional functions relating to education.

Functions include:

- The formulation of education policies and implementation
- Management of education institutions
- Developing and implementing education projects and programmes
- Curriculum development for schools and colleges
- Quality of education standards through inspection of schools and colleges
- Disbursement of grants-in-aid to schools including scholarships
- Finances and accounts of schools and colleges including auditing
- Provision of teachers in all schools and colleges
- Admission of pupils and students in schools and colleges
- Teacher professional development
- Professional conduct and discipline of pupils and students
- Higher education, technical education and research development

The overall management of education will need to be reorganized so as to provide a comprehensive framework for programme implementation, as shown in Figures 3.1.- 3.4. below. All sections will need to be allocated specific duties and functions; excess offices in senior positions such as Senior Deputy Director of Education (SDDE) and Deputy Director of Education (DDE) reduced while redundant offices such as deputy PDE and deputy DEO are done away with completely.
**Figure 3.1. Proposed Ministry of Education Structure – Headquarters**

Minister for Education

Permanent Secretary

Education Secretary (ES)

- Director Higher Education
  - University
  - Secondary
  - Technical

- Director Basic Education
  - Primary
  - ECE

- Director Quality Assurance and Quality of Standards
- Director Field and Other Services
  - Policy
  - Projects
  - Field Officers

- Director KESI
  - Teacher Training and Professional Development

- Secretary TSC
  - Teachers Service Management

- Director KIE
  - Curriculum Development

- Secretary KNEC
  - Examinations
  - Research
  - Testing

Job Group ‘T’
Job Group ‘S’
Job Group ‘R’
Job Group ‘Q’
Job Group ‘P’

Senior Deputy Director of Education

Provincial Director of Education

District Education Officer
Figure 3.2. Proposed Ministry of Education Structure – Province

Provincial Director of Education (PDE)

Provincial Inspector of School  TSC Staffing  Secondary Education  Primary Education  School Audit

- Languages  - Humanities
- Sciences  - Technical subjects
- Applied sciences

BOG
Admissions

Job Group ‘Q’
Job Group ‘P’
Job Group ‘N’

Figure 3.3. Proposed Ministry of Education Structure – District

District Education Officer (DEO)

District Inspector of School  TSC Staffing  Secondary Education  Primary Education  School Audit

- Languages  - Humanities
- Sciences  - Technical subjects
- Applied sciences

BOG
Admissions

Job Group ‘P’
Job Group ‘N’
Job Group ‘M’
Management of education will be at four levels as follows:

**Figure 3.4: Levels of Management in Education**

<table>
<thead>
<tr>
<th>Level</th>
<th>Function</th>
<th>Personnel</th>
</tr>
</thead>
<tbody>
<tr>
<td>Top Management (policy)</td>
<td>Management in Government</td>
<td>Minister, Assistant Minister, Permanent Secretary, Education Secretary, Directors / Chiefs of SAGAS, Boards of Management</td>
</tr>
<tr>
<td>Middle Management (Policy implementation)</td>
<td>Department and Divisional Heads</td>
<td>Senior Education Officers, Provincial Directors of Education</td>
</tr>
<tr>
<td>Supervisory Management (policy implementation and supervision)</td>
<td>Section and Unit Heads</td>
<td>District Education Officers, Principles of schools, Head teachers, Deputies and Heads of department</td>
</tr>
<tr>
<td>Operations and Maintenance Management (result based and task management)</td>
<td>Unit workers, management by carrying out specific tasks</td>
<td>Officers, Inspectors, Teachers, support staff</td>
</tr>
</tbody>
</table>

Education management and governance will change so as to improve the management and governance of individual schools. In the future of education in Kenya, all schools both primary and secondary, will have to be managed by a similar body, the Board of Governors (BOG) that will replace and usurp the powers of the School Management Committees (SMC) and replace the Parent Teacher Association (PTA). The school governing body, the BOG will have far more influence and power and make important decisions affecting the quality of education provision in the school. DEOs will confirm the appointment of all BOGs in the primary schools under their jurisdiction. For secondary schools, a recommendation will be made by the DEO and the PDE can confirm the BOG. All managers will be referred to as governors will be continuously trained and inducted on their roles and responsibilities. The chairman of the BOG can be elected by the BOG or at the election of the BOG.

A school governing body should have the following membership:

**Figure 3.5: Membership of the Board of Governors**

<table>
<thead>
<tr>
<th>Membership</th>
<th>Secondary schools</th>
<th>Primary schools</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Parent Governors (elected every year)</td>
<td>4</td>
<td>8</td>
</tr>
<tr>
<td>2 Governors appointed by the school sponsor or community for a community school (3 years)</td>
<td>4</td>
<td>2</td>
</tr>
<tr>
<td>3 Teacher Governors (elected every year)</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>4 MOE Representative</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>5 Co-opted members (elected three years)</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>6 Principal / Head teacher (Secretary of the Board)</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Total</td>
<td>16</td>
<td>16</td>
</tr>
</tbody>
</table>
The BOG will have various roles and responsibilities, make crucial decisions including the delegation of finances and the management of the school, prepare a school plan and develop partnerships with the head, parents and all other partners.

The use and growth of Information Technology (IT) is one of the main priorities in government and in organizational administration. IT will be used to support government operations and provide support through access to information on government policies and programmes, operations, processes and provide essential services such as filling forms on the Internet and sending them. Effective and operational Internet services will facilitate better and efficient delivery of information and services to other sections of the government, organizations and the general public. Overall, the free exchange of information is hoped to empower the citizens and encourage more participation, transparency, accountability and greater democracy. In this regard, most training courses and programmes will have an IT component. The goal of education is to be more result oriented, efficient and learner centred and the use of IT should enable schools and the general public to access essential information as efficiently and effectively as possible through the use of computers, the Internet and all other forms of communication. The MOE objectives are:

- To improve on collaboration between the MOE and other government Ministries and agencies and development partners through:
  - Reduction in duplication of efforts;
  - Minimize unnecessary delays;
  - Enhanced delivery of services; and,
  - Effective resource utilization
- To improve efficiency by making crucial information promptly available
- Reduce transaction costs especially when this is information that can be transferred quickly by making the information of products and services readily available
- Provide a forum where the public can participate and give their independent views

Education information services will enhance and support the MOE to collect and process data to improve education policies, planning and monitor progress. The
Internet will lead to access of information from all over the country by education officers, schools and colleges, parents, development partners and researchers.

In the future, education and institutional management will be standardized. Standardization refers the setting up of acceptable set up procedures and measures that form the basis of comparison and reference against which any component or system may be measured or evaluated. Such a standard is then enforced within an institutional framework that has a defined function or against set guidelines to ensure implementation strategies are adopted to achieve basic aims and objectives. It must be stressed that the standards might be defined broadly but the objective is to ensure quality.

Standardization therefore aims at the following:

- It ensures a clear statement of purpose, governance and conceptualization
- It ensures greater coordination of all networks related to standards across the board
- It assists in the design, development and maintenance of set standards
- It makes it easier for the organization and personnel to identify targets and set activities

Standards are benchmarks against which achievement can be assessed. The criteria are not mandatory but incorporate good practice and optimum performance. Thus standards are not specific in numerical terms but more in qualitative terms, that is, they tend to ensure minimum quality standards of quality rather than quantity. Using the specifications, management skill and a firm knowledge of the organization help reduce potential risks that may result from standardization.

3.4. Recommendations

It is recommended that:

* A study should be done to assess /evaluate:
  i) The extent to which Government Educational policies are understood and implemented in educational institutions;
ii) The extent to which the school ethos is a direct result of existing Government policy issues; and,

iii) The nature and extent to which Education managers and administrators understand and implement government policies

* The restructuring in the Ministry should be continued so as to assign clear duties to every section/ unit and avoid duplication of roles and responsibilities. The Ministry headquarters should perform a supervisory role as services are decentralized and education and school management and administration strengthened at the level of the school where the pupils/students are.

* The newly established policy section in the MOEST should do a critique of present educational policies and recommend a continuous review of the same including issuing clear policy guidelines.

* A handbook on policy framework in education in Kenya with clear guidelines on implementation strategies should be prepared and issued to all educational administrators and managers

* KESI should introduce a one-week Induction Course to train officials in educational management and school administrators on Government Policies in Education. This should be mandatory for all education managers and administrators

* The role of school sponsors and that of PTAs and SMC will have to be subsumed by the BOG since the roles and responsibilities is that of school Management

* The role of PTAs should be clearly foregrounded and members elected as PTA members in each class including two teachers in the school should be members of the BOG (Figure 3.5. above). That way, school management will be streamlined and standardized and all partners will and should be able to play a key role. That way, a board will manage all schools and this will strengthen the legal framework and involve more participation.

* The present system in which pupils and students rather than schools are ranked in national examinations should prevail

* All teachers in primary, secondary and tertially institutions should be inducted and trained on infusion and integration of HIV/AIDS in the curriculum
* The Provincial Administration (Provincial and District Commissioner) should not chair the Provincial and District Education Boards (PEB and DEBs) but can attend as members

* The Manual for Heads of Secondary Schools in Kenya (Republic of Kenya, 1975) and should be revised and reviewed to reflect the status quo

* All projects and programmes in education should clearly focus on the pupil (learner) and the benefits accrued from the project / programme should directly impart and impact on the learner

* Head teachers and deputy head teachers should be trained on alternatives to corporal punishment and the concept integrated in the Education Act

* Guidance and counselling teachers should be continuously well trained to handle counselling cases in schools, promote living values & life skills and assist in the discipline of students

* Continuous Professional Development (CPD) should be encouraged through training and by belonging to professional organizations

All areas that are not covered in the present Education Act should be looked into (see Part Four Section 4.9. on the Education (Kenya) Act below).

3.5. Way Forward

Since independence, the aims of education in Kenya have been threefold:

- The need to expand education opportunities. This has been greatly achieved and there is need to ensure equity and quality of education standards;
- The production of high-level manpower to meet the economic needs. This has also been realized to a great extent though it is continuous;
- The promotion of national unity. Kenya has remained peaceful in a region of political chaos as evident in Uganda in the 1980s, Sudan and Somalia. There have been internal conflicts caused by tribal wars though these are seen to be have been instigated by politicians to achieve individual ends.

But to echo the words of the Koech Commission (1999:353), future education plans in Kenya must be designed to ‘solidify and give fresh impetus’ to the present systems.
Strategies adopted to respond to the changes for an improved system will require being more than strategic; they will need to respond to the needs of the country, trends in education and economic and social factors. For instance, the larger proportion of the expenditure allocated to education is towards recurrent expenditure rather than development expenses and prioritization and design are now more than necessary. The education process must be examined in the light of developments made in developed countries to avoid some of the obvious mistakes. It must be recognized that education is the single most asset that a country can offer its citizens and in no way will government now or in future abdicate this responsibility. Better management and administration of education must be a priority in an effort to redesign future prospects of education. Other infrastructure must however be developed besides education to keep the economy growing and a myopic look at education in isolation will only frustrate government efforts at eradicating poverty and in improving other sector such as health and security.

There is a growing concern that, in a climate of increased accountability and limited resources, it is critical for service agencies including education, to prove their worth. Funding will increasingly become contingent on proven effectiveness, quality assurance, service audit and cost effectiveness. Even with a continued parallel growth in the demand for education, this demand is not, and will not be a unitary concept and features of monitoring and evaluation will be pivotal in both design and utility. The Ministry of Education will therefore need to be forward-looking and thinking in initiating organisational change in terms of both resources and culture conducive to conducting evaluation as part of routine practice. Ultimately, this will lead to increased confidence for all stakeholders in education. Finally, in looking for future directions, there is an urgent requirement to reach a consensus in identifying the most sensitive, relevant and consumer friendly measures to enable information to be pooled across the continuum of policy, education administration and management at all levels including the school and the pupils and students. Collectively, these considerations of future directions aim to offer insights into practices and for practitioners to enhance the provision of education services.
PART FOUR
EDUCATION (KENYA) ACT

4.1. Preamble
The new Education (Kenya) Act should have a legislative framework, curriculum framework and qualifications system. Under the new Act, Parliament should have responsibility for the entire education system with a separate subject map on training and lifelong learning. The Act should provide for funding of scientific research through a Research Council (RC).

A very brief introduction to the education system should be organised around the main elements of education. These are:

- Pre-school (5 years)
- Primary school (6-13 years)
- Secondary school (14-17 years)
- Further education (17+)
- Higher education (18/19+)
- Community education (all ages)
- Lifelong learning

Where fewer than 10 children are being educated, the education authority must be contented that satisfactory education is being provided and where more than 10 children are being educated the establishment must be registered with the Ministry of Education and open to inspection by the inspectorate or office of Quality Education and Standards (QES).

4.2. Education Administration
Sections of a chapter in the Act or a separate booklet should describe the education administration at national and local (local authorities and schools) arrangements for the administration of education. There is need to describe the regional level of administration (provincial and district for instance) to allow for specific allocation of
duties and responsibilities. All previous Acts related to education will need to be described, revised or rendered null and void to avoid confusion. All major parts missing in the present Education Act should be included such as the role of teachers and schools principals (see section 4.8 below) so that the new act is more comprehensive.

4.3. Legislative and Administrative Framework

The basic legal framework for education should be Education (Kenya) Act. All the various Education Acts in force should be integrated into one Act. In effect, overall responsibility for education should reside with the Parliament. This should be subject to Parliamentary scrutiny while the Ministry of Education administers a national policy on education. Local Authorities (LAs) should be responsible for the provision of school and pre-school education in their local area.

In addition, the following should be highlighted:

- While many children with special educational needs should be encouraged to be educated in mainstream schools, there should be a provision across the country for pupils with such needs. Provision should include day and residential schools or units and special classes in mainstream schools.
- Compulsory education should last from the ages of 5 to 18 years. In addition, the government may guarantee a one-year pre-school education place for all children in their pre-school year where their parents wish them to attend.
- Teachers in pre-schools, primary schools and secondary schools must hold a Teaching Qualification (TQ) and be registered with the Teachers Service Commission (TSC). The TQ is a minimum diploma for pre-schools and primary schools and a degree level qualification for secondary and post secondary education. In future, the government might require a minimum qualification of a one-year Post Graduate Diploma in Education (PgDE) or Post Graduate Degree in Education (PGDE) before one can qualify as a teacher at any level. This can be done gradually and teacher-training institutions would then be required to train and offer a Post Graduate Diploma in Education (PgDE) rather than a certificate. This will in essence promote post secondary and higher education in Kenya.
Formal parental involvement in schools is through membership of School Boards that should integrate sponsors, current board of governors (BOGs) and Parent Teacher Associations as proposed in the previous chapter (Table 3.1). But parents should generally be encouraged to take an active part in their children’s school through helping in class or with school trips and participation in other school activities. In addition, election of parent governor should be yearly.

A statutory curriculum in schools should be developed with clear curriculum guidelines provided for children in their pre-school year, for pupils in primary and secondary schools and all forthcoming levels should be regulated for quality control.

There should be no national testing arrangements for children in pre-schools and the national testing in primary schools should be used for placement. There should be no leaving certificates for primary school children. National testing at secondary school where children take national examinations at the end of their fourth year (Standard Grades) and in higher education in their fifth and sixth years (Higher Grades and Certificates of Sixth Year Studies) should be accorded a school-leaving certificate.

Inspectors of Schools (Quality Assurance and Standards Officers(QASO)) should be responsible for inspecting pre-school, primary and secondary schools and post secondary institutions but not university education. The Ministry, for example, should closely monitor further education establishments as well as community education services through a Higher Education Quality Council (HEQC). Responsibility for Further and Higher Education could be transferred to Higher Education Board (HEB). These institutions should be self-governing under the broad supervision of The Ministry of Education. Higher education institutions are autonomous bodies each with sole responsibility for managing its own affairs such as body corporate but are obliged to give an annual report to the Minister for Education.

Inspectors of Schools (QES) should be responsible for inspecting teacher education institutions.

There has to be an increasing focus on **lifelong learning.** This term is broadly used to describe the idea that education continues throughout the lifespan.
Lifelong learning has become particularly important within the context of an information society or knowledge society, which places great emphasis on keeping abreast of changes in the knowledge base. Further, higher and community educations are seen as major contributors to lifelong learning. In addition, the HEB will become increasingly important in this area.

4.4. Financing of Education

- Central Government should support state-provided pre-school, school and community education through the Ministry of Education and the Local Authorities. LAs can raise revenue through local council tax and non-domestic rates. Education should be the highest priority and perhaps the most expensive service provided by LAs, accounting for around 50% of annual expenditure. Each local authority should determine its own education spending and prioritise accordingly.

- Regardless of the amount provided by central government for all purposes, the BOG should make arrangements to solicit for funds. Individual schools should be responsible for managing at least 80% of the amount allocated for its support by the local authority.

- Legislation should allow for the provision of education for compulsory school age children within the education authority control, subject to certain constraints such as parents and community providing uniform, food and buildings. Children can be educated independently, in private schools. Private schools are self funding and parents would be expected to pay fees for their children to attend.

- The Ministry of Education should continue to support the Higher Education Board (HEB) and the Research Council (RC). The allocation of funds to Further and Higher Education institutions should be the responsibility of the HEB and the RC respectively. The University student loan scheme should be responsible for the administration of and support for higher education students. Funding for further education students in both public and private universities is the responsibility of the HEB.
4.5. Management of Education

In Kenya, there will be a number of agencies concerned with educational development. Government has established most of these for consultation at national level and others at local level. They will provide advice on elements of the education system.

These are:

- Council for Educational Technology (CET)
- Higher Education Loans Board (HELB)
- Kenya Education Staff Institute (KESI)
- Kenya Institute of Education (KIE)
- Kenya Institute of Special Education (KISE)
- Kenya National Examinations Council (KNEC)
- Research Council (RC)
- The Teachers Service Commission (TSC)

Other agencies concerned with education include: Kenya National Association of Parents (KNAP), Kenya National Union of Teachers (KNUT), Kenya Union of Post-Primary Education Teachers (KUPPET), Kenya Secondary Schools Head Association (KSSHA), and the Kenya Private Schools Association (KPSA) among others.

4.6. Compulsory Education

In accordance with the new Education (Kenya) Act, parents or guardians should be legally responsible for ensuring that their children of school age receive efficient education suitable to their age, ability and aptitude. They would be required to normally fulfil this duty by sending their child to school, although other means, such as education at home, can be used in special circumstances. The state should provide free public schools and supporting services through the education authorities. Parents may also choose to send their children to independent (private) schools for which they pay fees.

The law and the Education Act should broadly define a person as being 'of school age' for example, if he or she has attained the age of 5 years and has not attained the age of
16 -18 years. Many younger children would voluntarily attend nursery schools before
beginning primary school at age 5. Pupils would be expected to transfer to secondary
at around 13 years and remain after the age of 17 for one or two additional years
before proceeding to training or post-school education in further education (FE)
colleges or higher education (HE) institutions. Pupils may also leave at 16 – 18 years.
Since an adult is defined as a person who has attained the age of 18 years to vote or
obtain a national identity card or a driver’s licence, other laws can be expected to
conform to the same. For example, persons who have not attained 18 years could be
prevented from purchasing tobacco or alcoholic drinks to curb on drug and substance
abuse. Shops, supermarkets and other establishment would be compelled to put
notices to such effect.

Public Notice
It is an offence for anyone below the age of 18 years to attempt to buy
tobacco or alcoholic drinks, and it is an offence for anyone to attempt to buy
tobacco or alcoholic drink for anyone below the age of 18 years.

A fine of Kshs. 100,000 or imprisonment for a minimum of two years or both can be
imposed on the offenders.

Schools would be required by law to keep a register of the names of all pupils and
students and to record their attendance in the morning and afternoon of each day of
the school year. An absence from school will normally require to be explained by a
letter from the parent giving a reason for it. Education authorities will have means of
monitoring the attendance of pupils / students and have officers through the legal
system who follow up pupils who are consistently absent or whose reasons for
absence are regarded as insufficient. Parents may be prosecuted if their children do
not attend school regularly.

4.7. Principles of Education
Education in Kenya has always enjoyed a high status and most of the key principles
and values on which it is built are long established through an integration of both
traditional cultures and international ideas. The provision of free, compulsory
education for all within a specified age group (5-18 years) is fundamental. So, too, is a
broadly based curriculum, which should be designed to ensure that young people
could make progress in any one of several occupations. Education should prepare them, with certification, for the several changes and challenges in the job market in a rapidly changing socio-economic world.

Education also has to fit individual needs, be tailored to 'age, ability and aptitude' and aim to develop the 'personality, talents and mental and physical abilities of children and young persons to their fullest potential' Concern to ensure that classroom work properly challenges and supports all pupils and the increased attention to young people with additional support needs, whether in mainstream schooling or special units, are examples of the extension of this principle of appropriateness. This will require well-equipped teachers, more resources and accreditation.

A further principle is that there should be opportunities to continue voluntarily at school or to proceed to further or higher education, with financial assistance if necessary. This will require more institutions of Higher learning and quality of standards will also have to be maintained. Since independence, increasing the number of public universities and their expansion to increase places available in further and higher education has considerably extended this opportunity. There has also been expansion in private schools and institutions and informal education, with greater attention being given, for example, to community-based educational activities for both adults and young people.

Society, however, also has claims on the education system. Education for participation in a changing society implies that all learners have to identify their own needs, as far as possible, and become responsible for their own learning. Special needs education, life skills including guidance and counselling, health education and other aspects including democratic ideals and drugs and substances of abuse will need to be incorporated in this education. Society requires an educated populace to create the wealth, which can bring stability, progress and innovation. It also needs people who can provide the services that allow society to sustain its own growth maintain its health and well-being and offer the range of cultural and leisure activities, which bring enrichment and satisfaction. It depends on people who act as custodians of its values and stewards of its resources. In particular, this entails willing and responsible participation in the democratic process by which society regulates itself in response to
changes in social, economic and cultural circumstances. The Kenya education system is therefore expected to promote the autonomy of individuals and at the same time to equip them, on the basis of interdependence, to fulfil the variety of roles which society demands in a global world.
4.8. Education (Kenya) Act: Arrangement of Parts

EDUCATION (KENYA) ACT

PART I  PRELIMINARY AND GENERAL
1. Short Title and Commencement
2. Interpretation
3. The Statutory System of Education
4. Functions of the Minister for Education
5. Local Education Authorities
6. The Funding Authorities
7. Allocation of Responsibility for Education at School
8. Board of Governors
9. School Sponsor
10. Service of Notices

PART II  SCHOOLS
11. Preliminary
12. Recognition of Schools
13. Functions of a School
14. Withdrawal of Recognition
15. Annual Funding

PART III  QUALITY OF EDUCATION SERVICES (QES)
16. Preliminary
17. The Inspectorate (Quality of Education Standards)

PART IV  SCHOOLS MAINTAINED BY LOCAL EDUCATION AUTHORITIES
18. Preliminary
19. Establishment, Alteration etc. of Public and Voluntary Schools
20. Funding of Voluntary Schools
21. Government of Public, Voluntary and Maintained Schools
22. Financial Delegation to Boards of Governors
23. Conduct and Staffing of Schools
24. Discontinuance of Local Education Authority Schools
25. Miscellaneous and Supplementary Provisions

PART V  BOARDS OF MANAGEMENT
26. Preliminary
27. Establishment and Membership of Boards of Management (BOG)
28. Functions of a Board
29. Dissolution by the Minister
30. Keeping of Accounts and Records
31. Report and Information on Operation of Board
32. The School Plan

PART VI  THE SCHOOL PRINCIPAL AND TEACHERS
33. Preliminary
34. Functions of Principal and Teachers
35. The School Principal
36. Conduct and Staffing of Schools
37. Provisions Relating to Staff

PART VII  GRANT-MAINTAINED SCHOOLS
38. Preliminary
39. Procedure for Acquisition of Grant-Maintained Status
40. Property, Staff and Contracts
41. Establishing new grant-maintained schools
42. Government, Conduct of Public Schools
43. Funding of grant-maintained schools
44. Alteration etc. of grant-maintained schools
45. Discontinuance of grant-maintained schools
46. General and Miscellaneous

PART VIII  INDEPENDENT SCHOOLS
47. Preliminary
48. Registration of Independent Schools
49. Discontinuance of Independent Schools
50. Post Secondary Institutions
51. General and Miscellaneous

PART IX   CURRICULUM

52. Preliminary
53. School Curriculum
54. The Teachers Service Commission (TSC)
55. Establishment of National Council for Curriculum (KIE)
56. Establishment of National Council for Curriculum Assessment (KNEC)
57. Establishment of a National Training Institute on Education Management and Administration (KESI)
58. Establishment of a National Council for Special Education Needs (KISE)
59. Establishment of a Higher Education Board (HEB)
60. National Miscellaneous and Supplementary Provisions
61. Examination Regulations
62. Examination Offences

PART X   MISCELLANEOUS AND GENERAL

63. School Admissions, Attendance and Charges
64. School year, Week and Day
65. Information to Pupils and Students and Student Council
66. Parents’ Associations
67. Children with Special Educational Needs
68. Guidance and Counselling
69. Education Premises, Safety and Health
70. Grants and Other Financial Matters
71. Grievances and other Procedures
72. Appeals to Education Secretary
73. Employment of Children and Young Persons
74. Persons not covered by Act
75. General Regulations
PART XI BODY CORPORATE

76. Preliminary
77. Establishment of Bodies to Provide Services Related to Education
78. Functions of a Body Corporate Established under this Act
79. Membership and Staff
80. Administration of a Body Corporate Established under this Act
81. Annual Report

PART XI ANCILLARY FUNCTIONS

Chapter i: Ancillary Functions of Minister for Education
Chapter ii. Ancillary Functions of Local Education Authorities
Chapter iii: Ancillary Functions of Governing Bodies
Chapter iv: Provision of Information by Governing Bodies etc.

SCHEDULES

In addition, the following should be noted:

1. The Act should be very clear for example, on groups of grant-maintained schools and how they can be identified / defined.

2. The establishment of the Curriculum Implementation, Evaluation and Support Councils (KESI, KIE, KISE, KNEC, QES, TSC) should include the following for each in the Education Act:
   a) Establishment date
   b) Establishment of National Council for Curriculum (KIE) and same for KESI, KIE, KISE, KNEC, QES, TSC
   c) Composition and Appointment
   d) Objects and Functions
   e) Consultation with Designated bodies
   f) Chief Executive Officer
   g) Staff
   h) Grants
   i) Accounts and Information
   j) Committees
   k) Annual Report
This should also be true of Bodies Corporate since several would need to be established (Part XI). That is:

i. Establishment of body to provide services related to Education (specified)

ii. Membership and Staff

iii. Functions

iv. Administration

v. Grants

vi. Annual Report

vii. Revocation of Establishment order by the Minister for Education

3. For Examinations, it should include the following:
   a) Interpretation
   b) Examinations (all should be specified)
   c) Regulations and Conduct of Examinations
   d) Offences
   e) Refusal of Access to certain information

4. Grants and Financial Matters should specify the financial year (not calendar year unless this is what is meant and hence specified) and a requirement that the records of accounts should be available for scrutiny.

4.9. Parts of Education Missing in Present Education Act

The following parts, missing from the present Education Act or that are inadequately covered need to be reviewed:

**Preliminary and general**

**Interpretation.** (1) In this Act, except where the context otherwise requires—"articles of management" mean any instruments, relating to the operation and management of schools, as are in operation on the commencement of this Act and as shall be agreed from time to time by school sponsors, national associations of parents and recognized trade unions and staff associations representing teachers; "board" means a board of management established under section ...; "centre for education" means a place, other than a school or a place providing university or other third level (tertiary) education, where
adult or continuing education or vocational education or training is provided and which is designated for that purpose under …;
"Council" means the body established under …;
"curriculum" shall be construed in accordance with …;
"disability" means—
(a) the total or partial loss of a person's bodily or mental functions, including the loss of a part of the person's body, or
(b) the presence in the body of organisms causing, or likely to cause, chronic disease or illness, or
(c) the malfunction, malformation or disfigurement of a part of a person's body, or
(d) a condition or malfunction which results in a person learning differently from a person without the condition or malfunction, or
(e) a condition, illness or disease which affects a person's thought processes, perception of reality, emotions or judgement or which results in disturbed behaviour;
"educational disadvantage" has the meaning assigned by ..
"examination" has the meaning assigned to it by section
"functions" includes powers and duties;
"Inspector" means a member of the Quality Education and Standards;
"Inspectorate" means the Inspectorate appointed under section ..;
"Minister" means the Minister for Education and Science;
"national association of parents" means an association or other body of persons established by parents with objects which include representing the views and interests of parents with regard to education and assisting parents in exercising their rights and role in the process of the education of their children, that is—
(a) established and organised on a national basis and has a membership distributed over a substantial part of the nation, and
(b) for the time being recognised by the Minister for the purposes of this Act, including (name them) being bodies for the time being so recognised;
"National Council for Curriculum and Assessment" (KNEC) means the body/ies established in accordance with ..;
"parent" includes a foster parent, a guardian appointed under the … (I hope we have this act somewhere) or other person acting in loco parentis who has a child in his or her care subject to any statutory power or order of a court and, in the case of a child who has been adopted under the Adoption Acts, or, where the child has been adopted outside the country, means the adopter or adopters or the surviving adopter;
"parents' association" means an association to which … applies;
"sponsor" has the meaning assigned to it by section...;
"prescribed" means prescribed by regulations made by the Minister and cognate words shall be construed accordingly;
"Principal" means a person appointed under section .. and this could be a head teacher of a primary or secondary school or tertiary institution;
"recognised school" means a school that is recognised by the
Minister in accordance with section ..;
"recognised school management organisations" means those bodies
as may be established for the purpose of representing the interests of
persons engaged in the management of schools and which are
recognised by the Minister for the purposes of this Act;
"recognised trade union" means a trade union licensed under the
Trade Union Acts, that stands recognised for consultation purposes;
"school" means an establishment which—
(a) provides primary education to its students and which may also
provide early childhood education (ECE), or
(b) provides post-primary education to its students and which may
also provide courses in adult, continuing or vocational education or
vocational training, but does not include a school or institution
established in accordance with the Higher Education Board or
maintained by a health board in accordance with the Health Acts
"school plan" has the meaning assigned to it by section ..;
"school week" means the period of time during a week when a
school is open for the reception of pupils/students;
"school year" means such twelve month period commencing on a
day that falls between … in any year as may be prescribed from
time to time by the Minister, either generally or in respect of any
school or class of school;
"special educational needs (SEN)" means the educational needs of
students who have a disability and the educational needs of
exceptionally able students;
"student", in relation to a school, means a person enrolled at the
school and in relation to a centre for education, means a person
registered as a student in that centre;
"support services" means the services that the Minister provides to
students or their parents, schools or centres for education in
accordance with .. and shall include any or all of the following:
(a) assessment of students;
(b) psychological services;
(c) guidance and counselling services;
(d) technical aid and equipment, including means of access to
schools, adaptations to buildings to facilitate access and transport,
for students with special needs and their families;
(e) provision for students learning through sign language or
vernacular including interpreting services;
(f) speech therapy services;
(g) provision for early childhood, primary, post-primary, adult or
continuing education to students with special needs otherwise than
in schools or centres for education;
(h) teacher welfare services;
(i) transport services;
(j) library and media services;
(k) school maintenance services;
(l) examinations provided for in Part..;
(m) curriculum support and staff advisory services, and
(n) such other services as are specified by this Act or considered
appropriate by the Minister; "teacher" includes a Principal; "vocational education committee" means a committee established by (2) (a) In this Act a reference to a Part, section or a Schedule is a reference to a Part or section of or a Schedule to this Act, unless it is indicated that a reference to some other Act is intended. (b) In this Act a reference to a subsection, paragraph or subparagraph is a reference to a subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that a reference to some other provision is intended. (3) A reference in this Act to the performance of functions includes, with respect to powers and duties, a reference to the exercise of powers and the carrying out of duties.

School sponsor. (1) (a) The person who, at the commencement of this section, is recognised by the Minister as the sponsor of a school, and (b) the persons who, at the commencement of this section, stand appointed as trustees or as the board of governors of a post-secondary institution and, where there are no such trustees or such board, the owner of that school, shall be deemed to be the patron for the purposes of this Act and the Minister shall enter his, her or their name, as appropriate, in a register kept for that purpose by the Minister. (2) In any case other than that provided in subsection (1), the school sponsor or patron of a recognised school shall be the person who requested recognition of the school or a nominee of such person and the name of that person shall be entered in the register. (3) The Minister may amend the register in respect of any school on the application of the person or institution that stands for the time being registered as the sponsor or patron or of the successor to that person. (4) In the case of a school established or maintained by the community, the district education board or committee shall be the sponsor or patron of the school for the purposes of this Act. (5) Where two or more persons exercise the functions of a sponsor or patron they may be registered as joint sponsors. (6) The sponsor or patron of a school shall carry out the functions and exercise the powers conferred on the sponsor by this Act and such other functions and powers as may be conferred on the sponsor a deed, charter, articles of management or association relating to the establishment or operation of the school for educational purposes. (7) In this section— "person" includes a body of persons; "school" includes a proposed school.

Service of notices. Where a notice, direction or other document is authorised or required by or under this Act or regulations made hereunder to be served on a person, it shall, unless otherwise specified in this Act, be addressed to the person and shall be served on or given to the
person in one of the following ways—

(a) where it is addressed to the person by name, by delivering it to the person, or

(b) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, at that address, or

(c) by sending it by ordinary prepaid post addressed to the person at the address at which the person ordinarily resides, or in a case in which an address for service has been furnished, at that address.

Schools

Recognition of schools.

(1) On a request being made for that purpose, the Minister may from time to time designate a school or a proposed school to be a school recognised for the purposes of this Act.

(2) The Minister may designate a school or a proposed school to be a school recognised for the purposes of this Act where the Minister, on a request being made for that purpose by the school sponsor or patron of a school or a proposed school, is satisfied that—

(a) the number of pupils/students who are attending or are likely to attend the school is such or is likely to be such as to make the school viable,

(b) in the case of a proposed school, and having regard to the desirability of diversity in the classes of school operating in the area likely to be served by the school, the needs of pupils/students attending or likely to attend the school cannot reasonably be met by existing schools,

(c) the sponsor undertakes that the school shall provide the curriculum as determined in accordance with ..

(d) the sponsor agrees to permit and co-operate with regular inspection and evaluation by the Inspectorate,

(e) the school complies, or in the case of a proposed school shall comply, with health, safety and building standards as are determined by law and any further such standards as are determined from time to time by the Minister, and

(f) the school sponsor agrees that the school shall operate in accordance with such regulations as may be made by the Minister from time to time under section .. and with this Act and with any other terms and conditions the Minister may reasonably attach as to recognition.

(3) A school that, on the commencement of this section, is in receipt of funds provided by the local authority in respect of—

(a) the education activities for pupils/students of that school, or

(b) the remuneration of teachers in that school,

shall be deemed to be a school recognised in accordance with this section.

(4) The Minister may from time to time designate a place to be a
A recognised school shall provide education to pupils and students which is appropriate to their abilities and needs and, without prejudice to the generality of the foregoing, it shall use its available resources to—

(a) ensure that the educational needs of all pupils and students, including those with a disability or other special educational needs, are identified and provided for,

(b) ensure that the education provided by it meets the requirements of education policy as determined from time to time by the Minister including requirements as to the provision of a curriculum as prescribed by the Minister in accordance with …section on curriculum,

(c) ensure that pupils and students have access to appropriate guidance and counselling to assist them in their educational and career choices, personal and social needs,

(d) promote the moral, spiritual, social and personal development of pupils and students and provide health education for them, in consultation with their parents, having regard to the characteristic spirit of the school,

(e) promote equality of opportunity for both male and female pupils and students and staff of the school,

(f) promote the development of the Kenyan languages and traditions, and other cultural matters,

(g) ensure that parents of a student, or in the case of a student who has reached the age of 16-18 years, the student, have access in the prescribed manner to records kept by that school relating to the progress of that student in his or her education,

(h) conduct its activities in compliance with any regulations made from time to time by the Minister under section ...

(i) ensure that the needs of personnel involved in management functions and staff development in the school are identified and provided for,

(j) establish and maintain systems whereby the efficiency and effectiveness of its operations can be assessed, including the quality and effectiveness of teaching in the school and the attainment levels and academic standards of pupils/students,

(k) establish or maintain contacts with other schools and at other appropriate levels throughout the community served by the school, and

(l) subject to this Act and in particular section ..., establish and maintain an admissions policy that provides for maximum accessibility to the school.

Quality of Education Standards

The Inspectorate. (1) The Minister shall appoint a Director of Quality of Education Standards (DQES) and such and so many officers as the Minister considers appropriate and the Director and officers shall be known
and are referred to in this Act as the "Quality of Education Standards (QES) or Inspectorate".

(2) The Minister shall include amongst the officers under subsection (1) persons who hold qualifications as and expertise, including psychology and education of pupils/students with special educational needs.

(3) The functions of a Quality of Standards Officer shall be:

(a) to support and advise recognised schools, centres for education and teachers on matters relating to the provision of education and, without prejudice to the generality of the foregoing, an Inspector—

(i) shall visit recognised schools and centres for education on the initiative of the Inspectorate, and, following consultation with the board, sponsor, parents of pupil/students and teachers, as appropriate, do any or all of the following:

(I) evaluate the organisation and operation of those schools and centres and the quality and effectiveness of the education provided in those schools or centres, including the quality of teaching and effectiveness of individual teachers;

(II) evaluate the education standards in such schools or centres;

(III) assess the implementation and effectiveness of any programmes of education which have been devised in respect of individual students who have a disability or other special educational needs;

(IV) assess the implementation of regulations made by the Minister,

and

(V) report to the Minister, board, sponsor, parents of pupil/students and teachers, as appropriate, and as prescribed, on these matters or on any other matter relating to the activities of those schools or centres and the needs of pupils/students attending those schools or centres,

(ii) may conduct assessments of the educational needs of pupils/students in recognised schools and advise those students, their parents and the schools as appropriate in relation to the educational development of those students,

(iii) shall advise teachers and boards in respect of the performance of their duties, and, in particular, assist teachers in employing improved methods of teaching and conducting classes, and

(iv) shall advise parents and parents' associations;

(b) to evaluate the quality and effectiveness of the provision of education in the Country, including comparison with relevant international practice and standards, and to report thereon to the Minister;

(c) to conduct research into education and to provide support in the formulation of policy by the Minister;

(d) to promote excellence in the management of, teaching in and the use of support services by schools and in the procedures for consultation and co-operation within and between schools and centres for education;

(e) to disseminate information relating to—

(i) the performance by the Inspectorate of the functions provided for
in this section, and
(ii) successful educational initiatives which have been implemented
by schools and centres for education, and promote informed debate
on those matters;
(f) to evaluate the effectiveness of the teaching, development,
promotion and use of vernacular languages in schools and centres
for education and to report to the Minister on those matters;
(g) to advise the Minister on any matter relating to education policy
and provision, including the curriculum taught in recognised
schools, assessment and teaching methods, and
(h) to perform such functions relating to the preparation and
marking of the school examinations which are conducted as the
Director of Quality Standards shall determine, the monitoring and
evaluation of the content and standards of those examinations and to
report thereon to the Minister.
(4) Without prejudice to the generality of subsection (3), an
Inspector to whom subsection (2) applies shall have the following
functions:
(a) in consultation with parents to assess the needs of pupils/students in recognised schools and to advise as appropriate
those pupils/students, their parents and the schools in relation to the
educational and other development includes SEN, pastoral care and
guidance and counselling of such pupil/students;
(b) to advise recognised schools on policies and strategies for the
education of children with special educational needs;
(c) to advise the Minister on any matter relating to the
psychological needs of students in recognised schools;
(d) in collaboration with parents and the Principal and teachers in
recognised schools, to assist in the creation of a school environment
which prevents or limits obstacles to learning which pupils/students
may experience, and
(e) to advise the Minister on any matter relating to other needs such
as deaf or blind in recognised schools.
(5) Where an Inspector has carried out an evaluation or an
assessment under subsection (3) (a) (i), s/he may make
recommendations to the Minister in respect of improvements that
s/he considers appropriate.
(6) An Inspector shall have all such powers as are necessary or
expedient for the purpose of performing his or her functions and
shall be accorded every reasonable facility and co-operation by the
board and the staff of a school or centre for education.
(7) An Inspector, including the Director of Quality Standards, shall
carry out their functions in accordance with such procedures for,
and criteria of, inspections as may be determined by the Minister
from time to time, following consultation with school sponsors,
school management organisations, recognised trade unions and staff
associations representing teachers and such other persons as the
Minister considers appropriate, and such directions as may be given
by the Minister from time to time.
(8) A teacher or the board of a school may request the review of an
inspection carried out which affects the teacher or the school and the Director of Quality Standards shall review the inspection in accordance with such procedures as determined by law.

(9) A person who immediately before the commencement of this Part holds an office as Inspector or seconded to the Inspectorate shall on the commencement of this Part continue to hold that office or be so seconded as appropriate and this section shall apply to any such person.

**Boards of management (BOG)**

1. It shall be the duty of a school sponsor, for the purposes of ensuring that a recognised school is managed in a spirit of partnership, to appoint members to the board of management the composition of which is as agreed between sponsors of schools, national associations of parents, recognised school management organisations, recognised trade unions and staff associations representing teachers and the Minister.

2. A board established in accordance with subsection (1) shall fulfil in respect of the school the functions assigned to that school by this Act, and, except in the case of a school established or maintained by a vocational education committee, each board shall be a body corporate with perpetual succession and power to sue and may be sued in its corporate name.

3. Pending the establishment of a board as provided for by subsection (1) the persons who have responsibilities under the structures and systems in place in a school for the management of that school at the commencement of this Part, including boards of governors, shall, as appropriate, discharge the functions of a board under this Act.

4. The members of a board shall, except where articles of management otherwise provide, be appointed by the Minister.

5. When making appointments to a board established in accordance with subsection (1) the school sponsor shall comply with directions given by the Minister in respect of an appropriate gender balance and the Minister, before giving any such directions, shall consult with sponsors, national associations of parents, recognised school management organisations and recognised trade unions and staff associations representing teachers.

6. The Minister, with the agreement of the patron, national associations of parents, recognised school management organisations and recognised trade unions and staff associations representing teachers, shall prescribe matters relating to the appointment of a board.

7. Except as provided by this Act, no action shall lie against a member of a board in respect of anything done by that member in good faith and in pursuance of this Act or any regulations made by the Minister under this Act.

8. Where a sponsor determines that the appointment of a board in accordance with subsection (1) is not practicable, the sponsor shall
inform the parents of students, the teachers and other staff of the school and the Minister of that fact and the reasons therefore at the time of such determination and, thereafter, if a board is not so appointed, the sponsor shall, from time to time or as requested by the Minister, inform the parents, teachers and other staff and the Minister of the reasons therefore.

Keeping accounts and records. 
(1) A board shall keep all proper and usual accounts and records of all monies received by it or expenditure of such monies incurred by it and shall ensure that in each year all such accounts are properly audited or certified in accordance with best accounting practice.
(2) Accounts kept in pursuance of this section shall be made available by the school concerned for inspection by the Minister and by parents of pupils/students in the school, in so far as those accounts relate to monies provided in accordance with section on management of public funds.

Report and information on operation of Board. 
A board shall establish procedures for informing the parents of pupils and students in the school of matters relating to the operation and performance of the school and such procedures may include the publication and circulation to parents, teachers and other staff, the establishment of a report on the operation and performance of the school in any school year, with particular reference to the achievement of objectives as set out in the school plan provided for under section....

The school Plan. 
(1) A board shall, as soon as may be after its appointment, make arrangements for the preparation of a plan (in this section referred to as the "school plan") and shall ensure that the plan is regularly reviewed and updated.
(2) The school plan shall state the objectives of the school relating to equality of access to and participation in the school and the measures that the school proposes to take to achieve those objectives including equality of access to and participation in the school by students with disabilities or who have other special educational needs.
(3) The school plan shall be prepared in accordance with such directions, including directions relating to consultation with the parents, the sponsor, staff and students of the school, as may be given from time to time by the Minister in relation to school plans.
(4) A board shall make arrangements for the circulation of copies of the school plan to the sponsor, parents, teachers and other staff of the school.

The school principals and teachers 
Functions of Principal and teachers. 
(1) The Principal of a recognised school and the teachers in a recognised school, under the direction of the Principal, shall have responsibility, in accordance with this Act, for the instruction provided to all pupils and students in the school and shall
contribute, generally, to the education and personal development of students in that school.
(2) Without prejudice to subsection (1), the Principal and teachers shall—
(a) encourage and foster learning in pupils and students,
(b) regularly evaluate students and periodically report the results of the evaluation to the students and their parents,
(c) collectively promote co-operation between the school and the community which it serves, and
(d) subject to the terms of any applicable collective agreement and their contract of employment, carry out those duties that—
   (i) in the case of teachers, are assigned to them by or at the direction of the Principal, and
   (ii) in the case of the Principal, are assigned to him or her by the board.

The School

(1) The TSC in consultation with the board shall, in accordance with procedures agreed from time to time between the Minister, the sponsor, recognised school management organisations and any recognised trade union or staff association representing teachers, appoint to the school in a whole-time capacity a person to be Principal of that school subject to such terms and conditions as may be determined from time to time by the Minister
(2) In addition to the functions of a Principal provided above, the Principal shall—
(a) be responsible for the day-to-day management of the school, including guidance and direction of the teachers and other staff of the school, and be accountable to the board for that management,
(b) provide leadership to the teachers and other staff and the pupils and students of the school,
(c) be responsible for the creation, together with the board, parents of students and the teachers, of a school environment which is supportive of learning among the pupils/students and which promotes the professional development of the teachers,
(d) under the direction of the board and, in consultation with the teachers, the parents and, to the extent appropriate to their age and experience, the students, set objectives for the school and monitor the achievement of those objectives, and
(e) encourage the involvement of parents of students in the school in the education of those students and in the achievement of the objectives of the school.
(3) For the purpose of carrying out his or her functions under this Act, a Principal shall have all such powers as are necessary or expedient in that regard, and shall carry out his or her functions in accordance with such policies as may be determined from time to time by the board and regulations made in accordance with this Act.
(4) The Principal shall be entitled to be a member of any and every committee appointed by a board.
(5) Where, at the commencement of this section, the employer of the Principal in a post-primary school is a person or body of persons
other than the board of the school then subsection (1) shall apply as if the person who or the body which, at such commencement and from time to time thereafter, is such employer, is substituted for the board as therein referred to.

(6) Wherever practicable, the Principal shall, in exercising his or her functions under this section, consult with teachers and other staff of the school.

**Curriculum**

(1) The Minister may, from time to time, following such consultation with school sponsors, national associations of parents, recognised school management organisations and recognised trade unions and staff associations representing teachers, as the Minister considers appropriate, prescribe the curriculum for recognised schools, namely—

(a) the subjects to be offered in recognised schools,
(b) the syllabus of each subject,
(c) the amount of instruction time to be allotted to each subject, and
(d) the guidance and counselling provision to be offered in schools.

(2) Without prejudice to the generality of subsection (1), the Minister—

(a) shall have regard to the desirability of assisting schools to exercise their powers as provided for under subsection (4),
(b) shall have regard to the characteristic spirit of a school or class of school in exercising the functions under this section,
(c) may give directions to schools, where it is considered appropriate, to ensure that the subjects and syllabuses pursued in those schools are appropriate and relevant to the educational and vocational needs of the students in those schools,
(d) shall ensure that the amount of instruction time to be allotted to subjects on the curriculum as determined by the Minister in each school day shall be such as to allow for such reasonable instruction time, as the board with the consent of the school sponsor determines, for subjects relating to or arising from the characteristic spirit of the school, and
(e) shall not require any pupil/student to attend instruction in any subject that is contrary to the conscience of the parent of the student or in the case of a student who has reached the age of 18 years, the student.

(3) The Minister may—

(a) consult with the National Council for Curriculum and Assessment (KIE) and such other persons or bodies of persons as the Minister considers appropriate on any matter relating to the curriculum for recognised schools, and
(b) establish, as the Minister considers appropriate, such bodies of persons to conduct research and to advice on matters relating to duties under this section.

(4) A school may, subject to the requirement that the curriculum as determined by the Minister is taught in that school, provide courses
of instruction in such other subjects as the board considers appropriate

Establishment of National Council for...

(1) There shall stand established on the establishment day a body to be known as the National Council for (in this Act referred to as K.I.E., KNEC etc.) to perform the functions assigned to it by or under this Act.

(2) The Council shall be a body corporate with perpetual succession and an official seal and shall have power to sue and may be sued in its corporate name and, with the consent of the Minister, to acquire, hold and dispose of land or an interest in land and to acquire, hold and dispose of other property.

Examination Regulations.

(1) The Minister may make regulations considered appropriate, from time to time, for the effective conduct of examinations and in particular, without prejudice to the generality of the aforesaid, may make regulations relating to—

(a) the preparation of an examination paper and other examination materials,

(b) procedures at places where examinations are conducted, including the supervision of examinations,

(c) the marking of work presented for examination,

(d) the issuing of results of examinations,

(e) the charging and collection of fees for examinations,

(f) the terms under which candidates may appeal against the results of an examination and the procedure for such appeals,

(g) the penalties to be imposed on a person who acts in breach of regulations made by the Minister or who otherwise misconducts himself or herself in respect of an examination, and

(h) the designation of places where examinations may be held.

(2) The Minister may from time to time appoint a person or a body of persons to advise him or her on any matter relating to the examinations or to supervise or review any part of the conduct of the examinations, including appeals by candidates against the results of examinations.

Examination Offences.

(1) A person who—

(a) knowingly and without lawful authority publishes an examination paper or part of such paper to any other person prior to the holding of the examination concerned,

(b) has in his or her possession without lawful authority an examination paper or part of such paper prior to the holding of the examination concerned,

(c) carries out any duties relating to the preparation of examination papers and knowingly and without lawful authority provides a candidate for an examination or any other person with information concerning the material prepared by him or her in the course of those duties with the intention of conferring an advantage upon a candidate over other candidates,
(d) knowingly and wilfully credits a candidate with higher marks than the marks to which that candidate was entitled with the intention of conferring an advantage on that candidate over other candidates,
(e) knowingly and maliciously credits a candidate with lower marks than the marks to which that candidate was entitled,
(f) personates a candidate at an examination or knowingly allows or assists a person to personate a candidate at an examination,
(g) knowingly and maliciously destroys or damages any material relating to an examination,
(h) knowingly and maliciously obstructs any candidate or a person engaged in the conduct of an examination or otherwise interferes with the general conduct of an examination,
(i) knowingly and without lawful authority alters any certificate or any other record, including a record in machine-readable form, containing the results of an examination, or
(j) knowingly issues or makes use of any certificate or other document which purports to be a document issued by the person or body under whose authority the examination was conducted and to contain the results of an examination knowing that those results are false,
shall be guilty of an offence.

(2) A person who knowingly aids, abets, counsels or procures another person to commit any offence under subsection (1) or conspires with another person for the commission of any such offence shall be guilty of an offence.

(3) A person who is guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding Kshs. 100,000 or (at the discretion of the court) to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment, or
(b) on conviction on indictment, to a fine not exceeding Kshs. 100,000 or (at the discretion of the court) to imprisonment for a term not exceeding two years, or to both such fine and such imprisonment.

(4) No action shall lie against an examiner in respect of anything done by him or her in good faith and in pursuance of his or her functions as an examiner.

**Miscellaneous and general**

**School Year, Week, and Day.** The Minister may, from time to time, following consultation with the cabinet, school sponsors, national associations of parents, recognised school management organisations and recognised trade unions and staff associations representing teachers, prescribe—

(a) the minimum number of days in a school year during which a school shall be open to receive pupils and students and provide them with instruction,
(b) the minimum number of hours of instruction in a school day or
in a school week, and
(c) any matters related to the length of the school year, the school week or the school day and the organisation and structure of such year, week or day.

Information to Pupils and Students and Student Council.

(1) A board shall establish and maintain procedures for the purposes of informing students in a school of the activities of the school.

(2) The procedures established and maintained under subsection (1) shall facilitate the involvement of the students in the operation of the school, having regard to the age and experience of the students, in association with their parents and teachers.

(3) Students of a post-primary school may establish a student council and, without prejudice to the generality of subsection (1), a board of a post-primary school shall encourage the establishment by students of a student council and shall facilitate and give all reasonable assistance to—
(a) students who wish to establish a student council, and
(b) student councils when they have been established.

(4) A student council shall promote the interests of the school and the involvement of students in the affairs of the school, in co-operation with the board, parents and teachers.

(5) The rules for the establishment of a student council shall be drawn up by the board, in accordance with such guidelines as may be issued by the Minister from time to time, and such rules may provide for the election of members and the dissolution of a student council.

(6) A student council, following consultation with the board, may make rules governing its meetings and the business and conduct of its affairs.

Parents' association.

(1) The parents of pupils/students of a recognised school may establish, and maintain from among their number, a parents' association for that school and membership of that association shall be open to all parents of pupils/students of that school.

(2) A parents' association shall promote the interests of the pupils/students in a school in co-operation with the school board, school principal, teachers and pupils/students of a school and for that purpose may—
(a) advise the principal or the board on any matter relating to the school and the principal or board, as the case may be, shall have regard to any such advice, and
(b) adopt a programme of activities that will promote the involvement of parents, in consultation with the principal and the board, in the operation of the school.

(3) The board shall promote contact between the school, parents of pupils/students in that school and the community and shall facilitate and give all reasonable assistance to parents who wish to establish a parents' association and to such an association when established.

(4) (a) A parents' association shall, following consultation with its
members, make rules governing its meetings and the business and conduct of its affairs.

(b) Where a parents' association is affiliated to a national association of parents, the rules referred to in paragraph (a) shall be in accordance with guidelines issued by that national association of parents with the concurrence of the Minister.

**Appeals to Education Secretary**

(1) Where a board or a person acting on behalf of the board—

(a) permanently excludes a pupil or student from a school, or

(b) suspends a student from attendance at a school for a period to be prescribed for the purpose of this paragraph, or

(c) refuses to enrol a student in a school, or

(d) makes a decision of a class which the Minister, following consultation with school sponsors, national associations of parents, recognised school management organisations, recognised trade unions and staff associations representing teachers, may from time to time determine may be appealed in accordance with this section, the parent of the student, or in the case of a student who has reached the age of 18 years, the student, may, within a reasonable time from the date that the parent or student was informed of the decision and following the conclusion of any appeal procedures provided by the school or the sponsor, in accordance with section ..., appeal that decision to the Education Secretary and that appeal shall be heard by a committee appointed under subsection (2).

(2) For the purposes of the hearing and determination of an appeal under this section, the Minister shall appoint one or more than one committee (in this section referred to as an "appeals committee") each of which shall include in its membership an Inspector and such other persons as the Minister considers appropriate.

(3) Where a committee is appointed under subsection (2) the Minister shall appoint one of its number to be the chairperson of that committee and who, in the case of an equal division of votes, shall have a second or casting vote.

(4) In hearing and determining an appeal under this section an appeals committee shall act in accordance with such procedures as may be determined from time to time by the Minister following consultation with patrons, national associations of parents, recognised school management organisations and recognised trade unions and staff associations representing teachers and such procedures shall ensure that—

(a) the parties to the appeal are assisted to reach agreement on the matters the subject of the appeal where the appeals committee is of the opinion that reaching such agreement is practicable in the circumstances,

(b) hearings are conducted with the minimum of formality consistent with giving all parties a fair hearing, and

(c) appeals are dealt with within a period of 30 days from the date of the receipt of the appeal by the Education Secretary, except where, on the application in writing of the appeals committee stating the reasons for a delay in determining the appeal, the
Education Secretary consents in writing to extend the period by not more than 21 days.

(5) On the determination of an appeal made under this section, the appeals committee shall send notice in writing of its determination of the appeal and the reasons for that determination to the Education Secretary.

(6) Where—
(a) an appeals committee upholds a complaint in whole or in part, and
(b) it appears to the appeals committee that any matter which was the subject of the complaint (so far as upheld) should be remedied, the appeals committee shall make recommendations to the Education Secretary as to the action to be taken.

(7) As soon as practicable after the receipt by the Education Secretary of the notice referred to in subsection (5), the Education Secretary—
(a) shall, by notice in writing, inform the person who made the appeal and the board of the determination of the appeals committee and the reasons thereof, and
(b) in a case to which subsection (6) applies, may in such notice give such directions to the board as appear to the Education Secretary (having regard to any recommendations made by the appeals committee) to be expedient for the purpose of remedying the matter which was the subject of the appeal and the board shall act in accordance with such directions.

(8) The Minister, in consultation with patrons of schools, national associations of parents, recognised school management organisations and recognised trade unions and staff associations representing teachers, shall from time to time review the operation of this section and section … and the first such review shall take place not more than two years from the commencement of this section.

(9) In the case of a school that is established or maintained by a vocational education committee an appeal against a decision of the board of such school shall lie, in the first instance, to the vocational education committee and thereafter to the Education Secretary in accordance with subsection (1).

(10) The Minister shall, from time to time, following consultation with vocational education committees, national associations of parents and recognised trade unions and staff associations representing teachers, prescribe—
(a) the procedures for appeals under this section to vocational education committees, and
(b) which appeals shall inquire into whether the procedure adopted by a board in reaching a decision or conducting an appeal was fair and reasonable and which appeals shall be by way of a full re-hearing.

(11) For the purposes of subsection (1)(c), "Pupil /student" means a person who applies for enrolment at a school and that person or his or her parents may appeal against a refusal to enrol him or her in the...
Guidance and counselling
(1) All pupils and students from Early Childhood Education through secondary school shall have access to guidance and counselling services as required in the context of the resources available to the school.
(2) Guidance and counselling services shall meet identified needs in three key areas:
   (a) Educational development;
   (b) Personal and Social development; and,
   (c) Career development.
   Counselling services may be developmental, preventive or crisis-oriented.
(3) School counsellors shall respect the confidentiality of information received in accordance with professional ethics and the law.
(4) Principals shall ensure that guidance and counselling services are available to students as outlined in this policy.
(5) Schools through the Teachers Service Commission shall engage professionally trained counsellors who have had successful certified teaching experience.
(6) Counsellors should be qualified professionally, and where this is not currently the case, the principal shall recruit the services of counsellors so qualified, as the opportunity arises.
(7) The roles and responsibilities of counsellors shall include the following:
   (a) Group and individual counselling of pupils and students of an educational, career, and personal/social issues and difficulties.
   (b) Facilitating the transition from one school or grade to another by acting as a liaison with feeder schools and post secondary institutions.
   (c) Acting as a resource person to teachers in the planning, delivery, and evaluation of special needs programs by sharing expertise with staff, parents, and community agencies.
   (d) Consulting with parents, administrators, teachers and community agencies.
   (e) Coordination of community services with school programs.
   (f) Provision of, or referral to services, which assist pupils and students in coping more effectively with behaviour adversely affecting their school progress and personal relationships.
   (g) Assistance in relating pupil/students’ educational and career plans to their abilities, interests, and aptitudes.
   (h) Other duties and responsibilities that emerge within the culture of a particular school.
(8) Each school shall have a written guidance and counselling program plan that is reviewed and updated annually by the school counsellor(s) with consultation with the principal and school administrative team, teachers, pupils/students
and the board, as appropriate.
(9) Principals shall be responsible for monitoring and evaluating the effectiveness of the guidance and counselling services in the school, in accordance with these procedures. As soon as may be after the end of each year, the Corporate body shall prepare and submit to the Minister, in such form as may be determined by the Minister, a report on the performance of the Council in that year.

Body corporate

Establishment of bodies to provide services related to education.

(1) The Minister, with the concurrence of the Government, may from time to time by order (in this Act referred to as an "establishment order") establish a body to perform, subject to subsection (2), functions in or in relation to the provision of support services.

(2) The performance of functions by a body established under subsection (1) shall be subject to the determination of matters of policy by the Minister.

(3) A body established under subsection (1) shall be known by such title as may be specified in the establishment order.

(4) A body so established shall be a body corporate with perpetual succession and a seal and with power to sue and be sued in its corporate name and to hold land.

(5) The Minister may from time to time by order amend an establishment order or an order made under this subsection.

(6) The person appointed as principal officer of a body established under subsection (1) shall be accountable to the Minister in carrying out the functions referred to in that subsection.

(7) Before making an order under this section the Minister shall consult, as the Minister considers appropriate, with persons directly affected by the proposed order or with trade unions or associations representing such persons.

(8) Notwithstanding section 5, the Minister shall not make an order under this section unless he or she has first caused to be laid before the House a draft of the proposed order and the cabinet has passed a resolution approving of the draft.

Functions of a body corporate established under this act.

An establishment order shall contain such provisions as the Minister considers appropriate defining the functions of the body established by the order and the manner in which and the conditions under which the body so established may perform the functions so defined.

Membership and staff.

(1) Every establishment order shall contain such provisions as the Minister considers appropriate in relation to—
(a) the number of members of the body established by the order, the method, terms and conditions of their appointment and their tenure of office, and
(b) the number, grades, qualifications, method of appointment
(including secondment), conditions of service, tenure of office and the remuneration and superannuation of the persons employed in or by the body so established.

(2) A person seconded or transferred to a body established under section 54, shall not, while in the service of that body, receive less remuneration or be subject to less beneficial conditions of service than the remuneration to which that person was entitled and the conditions of service to which that person was subject prior to such secondment or transfer.

**Administration of a body corporate established under this act.** An establishment order shall contain such provisions relating to the administration generally of the body established by the order as the Minister considers appropriate including provisions relating to—

- (a) the meetings of the body so established and the procedure at such meetings,
- (b) the use and authentication of its seal,
- (c) the regulation of its finances and the keeping and auditing of its accounts, and
- (d) the furnishing to the Minister by such body from time to time of information regarding the performance of its functions, and the furnishing of such information to the Minister at any time or on request.

**Annual Report.** As soon as may be after the end of each year, the Corporate body shall prepare and submit to the Minister, in such form as may be determined by the Minister, a report on the performance of the Council in that year.
REFERENCES


APPENDIX 1: POLICY AND STATUTORY EDUCATION DOCUMENTS

♦ The 1963 Kenya African National Union (KANU) Manifesto
♦ The Kenya Education Commission (Ominde Report) of 1964
♦ Sessional Paper No. 10 of 1965 on African Socialism and Its Application to Planning in Kenya
♦ The Board of Adult Education Act Cap 223 (1965)
♦ The Jomo Kenyatta Foundation (founded in 1966)
♦ The Teachers Service Commission Cap 212 Act of 1967 (Revised 1968)
♦ Sessional Paper No. 5 of 1968 on Special Education
♦ The Education Act Cap 211 of 1968 (Revised 1980)
♦ The University of Nairobi Act Cap 210 (1970)
♦ The Industrial Training Act Cap 237 (1972)
♦ The National Committee on Education Objectives and Policies (Gachathi Report) of 1976
♦ The National Council for Science and Technology Act Cap 250 (1978)
♦ The Kenya Literature Bureau Act Cap 209 (1980)
♦ The Universities Act Cap 210B (1985)
♦ The Kenyatta University Act Cap 210C (1985)
♦ Sessional Paper No. 1 of 1986 on Economic Management and Renewed Growth
♦ The Egerton University Act Cap 214 (1987)
♦ The Presidential Working party on Education and Manpower Training for the Next Decade and Beyond (Kamunge Report) of 1988
♦ Sessional Paper No. 6 of 1988 on Education and Manpower Training for the Next Decade and Beyond
♦ Universities Rules, 1989
♦ The Jomo Kenyatta University of Agriculture and Technology (Jikuat) Act (1994)
♦ Master Plan on Education and Manpower Training (1997-2010)
♦ Maseno University Act (2000)
APPENDIX II: SUBSIDIARY LEGISLATION

- Legal Notice No. 73/1965 and 178/1966: The Education (Board of Governors) Kenya Polytechnic Order
- Legal Notice No. 137/1967: The Teachers Service Commission (Removal from Register) Rules
- Legal Notice No. 106/1968: The Education (Education Standards) Regulations
- Legal Notice No. 18/1969: The Education (Board of Governors) Regulations
- Legal Notice No. 84/1967 and 36/1972: The Education (Board of Governors) Mombasa Polytechnic Order
- Legal Notice No. 201/1969: The Education (Registration of unaided Schools) Regulations
- Legal Notice No. 50/1970: The Education (Entrustment of Functions to Local Authorities) Order
- Legal Notice No. 200/1970: The Education (Local Entry Fees for Examinations) Regulations
- Legal Notice No. 40/1972: The Education (School Discipline) Regulations
- Legal Notice No. 59/1972 and 207/1973: The District Education Boards Regulations
- Legal Notice No. 105/1976: The Kenya Institute of Education Order
- Legal Notice No. 190/1978: The Education (School Committees) Regulations
- Legal Notice No. 242/1978: The Education (Board of Governors) Kenya Technical Teachers College Order
- Legal Notice No. 234/1978 and 166/1979: The Education (Board of Governors) Kenya Science Teachers College Order
- Legal Notice No. 17/1986: Kenya Institute of Special Education
- Legal Notice No. 565/1988: Kenya Education Staff Institute
- Legal Notice No. 56, The Universities (Establishment of Universities (Standardization, Accreditation and Supervision)) Rules, 1989
Legal Notice No. 262/1993 and 263/1993: The Education (BOG, Non Teaching Staff) regulations

APPENDIX III: ACTS OF PARLIAMENT SOME PROVISIONS OF WHICH AFFECT EDUCATION

- The Arbitration Act, Chapter 49
- The Births and Deaths Registration Act, Chapter 149
- The Kenya Citizenship Act, Chapter 170
- The Pensions Act, Chapter 189
- The Macmillan Memorial Library Act Chapter 217
- The Kenya National Library Service Board Act Cap 225
- The Employment Act, Chapter 226
- The Trade Dispute Act, Chapter 234
- The Workmen’s Compensation Act, Chapter 236
- The Public Health Act, Chapter 247
- The National Hospital Insurance Fund Act, Chapter 255
- The Local Government Act, Chapter 265
- The Exchequer and Audit Act, Chapter 412
- PMG Act and Regulations Chapter 413
- The Children’s Act Chapter 586
In revising the policy, the Department of Education follows Kenya’s national philosophy, which places education at the centre of the country’s human and economic development and focuses on the acquisition of knowledge and skills as well as provision of lifelong learning. Concept of lifelong learning. Lifelong learning is necessary to empowering individuals to become self-determined and educated citizens. Compulsory basic education alone cannot prepare people for the ever changing global labour market as they, in addition to the formally transferred knowledge, need to obtain more complex skills Legal Framework. What is a Standard Basic Framework Agreement? This Agreement embodies the basic conditions under which the UNDP and its Executing Agencies shall assist the Government in carrying out its development projects, and under which such UNDP-assisted projects shall be executed. It shall apply to all such UNDP assistance and to such project Documents or other instruments (hereinafter called Project Documents) as the Parties may conclude to define the particulars of such assistance and the respective responsibilities of the Parties and the Executing Agency hereunder in more detail in r