

KENYA NEW CONSTITUTION AND
EDUCATION: EDUCATION IN KENYA
UNDER THE NEW CONSTITUTION

**PAPER PRESENTED TO THE TASK FORCE ON
THE REALIGNMENT OF THE EDUCATION
SYSTEM TO THE CONSTITUTION OF KENYA**

Geoffrey Wango

FEBRUARY 2011

© Wango, G. M. (2011). *Kenya New Constitution and Education: Education in Kenya Under the New Constitution*. Nairobi: Paper Presented to the Task Force on the Realignment of the Education System to the Constitution of Kenya

FOREWORD

Education is very vibrant and rapidly growing to become more exciting, comprehensive, and, ultimately more challenging. These significant developments and challenges is not something that is only felt by Government alone; education continues to fascinate parents, pupils and students, as well as educationalists. Developments in education must therefore be used to inform and assist in the creation of sound educational policies, to aid in better understanding of educational processes, raise and interlink learning and the school with the community and the environment. Educationalists and researchers will find themselves faced with a growing body of information, most of which they will never of essence truly master due to the ever growing and widening scope of education. This is because education is both a scientific inquiry as well as requirement for us to be innovative in both our thinking and actual practice.

This paper is fundamentally interested in understanding change in education in Kenya in line with the Constitution. As a consequence, this paper singles out recommended innovations presented to the task force and it is in no way an official report by the task force. Therefore, it is to a greater extent a reflection of anticipated innovations trends within the domain of education in line with the new Constitution.

About the Author

Dr. Geoffrey Wango is a Lecturer at the Department of Psychology University of Nairobi. Dr Wango has a Doctor of Philosophy (Ph.D) degree in Counselling from the University of Birmingham, United Kingdom. He has worked in the Ministry of Education headquarters in Policy and Planning, Quality Assurance and Standards, and as a Senior Lecturer at the Kenya Education Staff Institute (KESI).

Dr. Wango has attended, participated in and facilitated several national and international conferences, seminars and workshops on Counselling, Education and Gender. He has authored several publications on Education and Counselling including: *Counselling in the School: A Handbook for Teachers* (Wango and Mungai, 2007), *School Administration and Management: Quality Assurance and Standards in Schools* (Wango, 2009), and three other publications in press, that is, *School Finance Management: Fiscal Management to Enhance Governance and Accountability* (Wango and Gatere, In Press); *Psychological Counselling in Kenya: A Contemporary Review of the Developing World*; and, *Counselling in the Home*.

Contacts: gwango@uonbi.ac.ke or wangombuguageoffrey@gmail.com

EXECUTIVE SUMMARY

This paper argues that the nature and organization structure and the underpinning principles of the Kenyan Education System will undergo several changes in line with the new Constitution. This is because education plays a key role in organizational performance. In this paper, the existing education structure and principles are examined via a brief of anticipated development aligned with the new Constitution. There is clear evidence that the new Constitution is one of the most progressive, comprehensive and modern Constitutions in the world. It provides several underlying principles, values and rights in conformity with social economic and cultural rights in the overall Government organization and design. Inevitably, this has various implications on education in Kenya as a developing country. Comparisons for future education plans are made between existing principles and values derived from various countries.

The major highlights of the paper are as follows. Education in pre-school, primary and secondary school should constitute basic education, be free and compulsory. Currently, there are two ministries responsible for education and these should eventually be merged. The Ministry responsible for Education would then be in charge of education administration and perform a coordination and supervisory role. In addition, there should be a senior education officer preferably County Director of Education (CDE) in charge of education in the County. Parents and communities should be more empowered. It is suggested that the Director, County Education be recruited by the Public Service Commission (PSC) and posted by the Ministry of Education in respective Counties to ensure national standards are maintained. It is time that both secondary and primary schools were managed by a Board of Governors that constitutes parents, teachers, school sponsor and members of the local community. Teachers training colleges would have to offer a Diploma in Education or Post Graduate Diploma in Education and not a Certificate course.

The paper further suggests that children begin school at five (5) years for pre-unit. Pre-unit should be part of basic education, free and compulsory. Teachers in pre-unit should be posted and paid by the Teachers Service Commission (TSC) though they can be recruited at County level with guidance from the TSC. Counties are encouraged to construct quality houses to attract and retain teachers. Children should

produce a birth certificate for admission in a school. Furthermore, parents and/ or guardian should be sued for failure to take a child to school.

Overall, there are many Acts and policies in Education, Science and Technology as well as research and training that require to be harmonized, as other Government functions are aligned to the Constitution. The new Constitution stipulates that basic education is free and compulsory and it is quite essential that this be defined including the number of years in school. This calls for a new Education Act to replace the current Act enacted in 1967 (Revised 1980). The new Education Act should be more comprehensive and establish the role and functions of various corporate such as CHE, HELB, JKF, KESI, KIE, KISE, KLB, KNEC and TSC, ascertain the role of principals and head teachers, and a redefinition of school Board of Management (Board of Governors and School Management Committee) to merge with Parents Teachers Association and include parents and teachers as school governors.

The Constitution provides impetus for increased democracy, accountability, integrity and professionalism. Arising from the Constitution, a speculative model of educational organizational structure based on informed policy and practice is suggested in this paper. Every County should eventually have two established National Schools, preferably male and female, to promote equity and nationalism. It is proposed that support staff and / or teachers recruited by the school directly should be employed by the County and not the schools so that personal emolument costs are borne by the country as the school concentrates on curriculum delivery and implementation. In conclusion, it is suggested that the use of design principles derived from the complexity of a merger between the current and a new education format offers a way forward that should facilitate the development of improved as well as new Government structural forms that are resilient and more resonant with modern times and aligned to the Constitution.

This paper is organized as follows. The first Chapter presents a synopsis of the situation of education in Kenya and the relevance of the Constitution. Chapter two consists of the current education structure and systems, opening avenues for innovations therein to the new Constitution. Chapter three analyses the educational reorganization and implications of the Constitution, while Chapter four presents the conclusions and suggestions for implementation framework aligned with the new Constitution.

TABLE OF CONTENTS

Foreword	ii
Executive Summary	iii
Acronyms and Abbreviations	vii
List of Tables	x
List of Figures	x

Chapter One Background to Education in Kenya and the New Constitution

1.0. Introduction	1
1.1. Education Situational Analysis: A Synopsis	1
1.2. Education in the New Constitution	7

Chapter Two Kenya Education Organisational Structure

2.0. Importance of Organisation Structure	8
2.1. Definition of Structure: The Kenya Education Structure System	8
2.1.1. Pre-School Education	9
2.1.2. Primary Education	10
2.1.3. Secondary Education	10
2.1.4. Tertiary Education	10
2.1.5. Education Institutions and Schools	12
2.2. Children with Special Needs, Disabilities and the Gifted	12
2.3. Education Structure Support Systems	13
2.3.1. Quality Assurance and Standards	13
2.3.2. Teacher Management	13
2.3.3. Curriculum and Examinations	15
2.4. Language	17
2.5. Contemporary Issues in Education	17
2.5.1. HIV and AIDS	18
2.5.2. Gender Equity in Education	19
2.5.3. Adolescence, Growth and Development	20
2.5.4. Guidance and Counselling, Life Skills and Peace Education	21
2.5.5. Religion and Philosophy	21
2.6. Establishment and Maintenance of Educational Institutions	22

2.7.	Conclusion	22
------	------------	-------	----

Chapter Three Major Innovations: Reorganising Education Under the New Constitution

3.0.	Moving Towards Change: Change or Innovation	.....	23
3.1.	The Present Education System: Strengths and Weaknesses	.....	23
3.1.1.	Education and the Law	.....	24
3.1.2.	System of Education	.....	27
3.1.3.	Improved Teacher and School Management	.....	29
3.1.4.	New Curriculum and Examinations	.....	30
3.2.	Innovations in Education, Training, Science and Technology	.....	31
3.2.1.	A New System of Education	.....	31
3.2.2.	Personnel Structure	.....	33
3.2.3.	Education Administration and Management	.....	33
3.2.4.	Education Institutions and Credentials	.....	35
3.2.5.	International Students' Admissions	.....	36
3.2.6.	Chartered School	.....	36
3.3.	Cost and Financial Implications of the New Education System	.....	38
3.4.	Projections: Pupils, Schools and Teacher School Requirements	.....	39
3.5.	Average Unit Cost of Basic Education	.....	40
3.6.	Governance and Accountability	.....	42
3.7.	Pupil Level Annual Schools Census	.....	43
3.8.	Conclusion	.....	44

Chapter Four Innovations: Reorganising Education Under the New Constitution

4.0.	The Emergence of a New Conceptual Framework	.....	45
4.1.	Recommendations	.....	45
4.2.	Final Reflections	.....	48

References	49 - 50
-------------------	-------	---------

Appendix 1	Education Structure: Canada	51
------------	-----------------------------	-------	----

ACRONYMS AND ABBREVIATIONS

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
BOM	Board of Management
CBDS	Common Basic Dataset
CDE	County Director of Education
CHE	Commission for Higher Education
DCE	Director of County Education
DEB	District Education Boards
DEOs	District Education Officers
ECD	Early Childhood Development
ECDE	Early Childhood Development Education
ECDEC	Early Childhood Development, Education and Care
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
IB	International Baccalaureate
ICT	Information Communication and Technology
IGCSE	International General Certificate of Secondary Education
ISO	International Standards Organisation
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
MLCs	Middle Level Colleges
MOE	Ministry of Education
MOHST	Ministry of Higher Education, Science and Technology
MPET	Master Plan on Education and Training
NACECE	National Centre for Childhood Education
NARC	National Rainbow Coalition
NAS	National Assessment System
NDP	National Development Plans
NQF	National Qualifications Framework
OBET	Outcome-Based Education and Training
PB	Performance Budgeting
PBB	Performance Based Budgeting
PC	Performance Contracting
PDE	Provincial Director of Education
PETS	Public Expenditure Tracking System
PGDE	Post Graduate Degree in Education
PgDE	Post Graduate Diploma in Education
PLASC	Pupil Level Annual Schools Census
PTA	Parent Teacher Association
QAS	Quality Assurance and Standards
QES	Quality of Education Standards
RBM	Results-Based Management
RC	Research Council
SAGAs	Semi-Autonomous Government Agencies
SAPs	Structural Adjustment Programmes
SATs	Scholastic Assessment Tests
SEN	Special Education Needs

SIIP	School Infrastructure Improvement Programme
SMC	School Management Committee
SMSS	School Management Software System
SPA	Staff Performance Appraisal
TIQET	Totally Integrated Quality Education and Training
TQ	Teacher Qualification
TSC	Teachers Service Commission
TTCs	Teacher Training Colleges
TIVET	Technical, Industrial, Vocational and Entrepreneurship Training
UPE	Universal Primary Education
UPN	Unique Pupil Number
VET	Vocational and Entrepreneurship Training

LIST OF TABLES

Table 1.1.	Primary Gross Enrolment Rate and Net Enrolment Rate, 2004 – 2010	4
Table 1.2.	Secondary Gross Enrolment Rate and Net Enrolment Rate, 2004 – 2010	3
Table 1.3.	Pupil Completion Rate and Primary to Secondary Transition Rate 2004 – 2010	3
Table 1.4.	Pupil Enrolment at KCPE, 1999 – 2010	5
Table 1.5.	Student Enrolment at KCSE, 2001 – 2010	6
Table 3.1.	Key Stages, Age Groups and School Year	31
Table 3.2.	Proposed Key Stages, Age Groups and School Year	32
Table 3.3.	Projections: Pupils, Schools and Teachers, 2010 - 2015	39
Table 3.4.	Free Day Secondary Cost per Child	40
Table 3.5.	Government Subsidy for Secondary Allocation per Tranche	40

LIST OF FIGURES

Figure 3.1.	The Structure of Education in the United States	28
Figure 3.2.	Organization of Education at the County Level	29
Figure 3.3.	Membership of the Board of Governors	34
Figure 3.4.	Types of Higher Education Institutions	35
Figure 3.5.	School Leaving and Higher Education Credentials	35
Figure 4.1.	Suggested Innovations in Education Under the Constitution	46

CHAPTER ONE

BACKGROUND TO EDUCATION IN KENYA AND THE NEW CONSTITUTION

1.0. Introduction

Kenya has a well-developed education system with enrolment rates in primary and secondary school among the highest increasing in the world following the introduction of free primary education in 2003 and free secondary education in 2008. Enrolment in primary school increased from 5.9m in 2002 to 7.2m in 2003 and 8.8m in 2010, while enrolment in secondary school increased from 860,000 in 2007 to 1.4m in 2008. Transition from primary to secondary has increased from 47% in 2008 to 70% in 2009 and 74 % in 2010, while enrolment in universities stands at 40,000 as compared to 15,000 in 2003. Gender parity index in primary is at 0.95. These achievements in education have been noteworthy and have come along with several challenges. Among the major challenges have been access, quality and relevance of education, and these key aspects are now at the core of education planning.

The Government is continually reviewing and reforming education and training at all levels to address the issues that arise from social and economic changes internationally and nationally. This commenced at independence in 1964 (Republic of Kenya, 1964) with the Ominde Commission that recommended education for all, the Mackay and Kamunge reports (Republic of Kenya, 1981; 1988) and the Koech Commission (Republic of Kenya, 1999). In many cases, the Kenya Model has attracted the attention of countries especially in Sub-Saharan Africa and evolved in line with the development of educational programmes in several overseas countries (Wango, 2006a; 2006b).

1.1. Education Situational Analysis: A Synopsis

Education is considered as a basic human right and a basic need. The socio-economic and political benefits accruing from education are evidently clear. Studies indicate that countries with high literacy rates among women and men have lower levels of fertility, lower infant and maternal mortality, longer life expectancy and address gender equity issues in development. Therefore, the economic and social returns to

investment in education are highly significant. In addition, the Government remains committed to realize Universal Primary Education (UPE) by 2005 and Education for All (EFA) by 2015.

The national goals of education are:

1. Foster nationalism, patriotism and promote national unity.
2. Promote the socio-economic, technological and industrial for the country's development.
3. Promote individual development and self-fulfilment.
4. Promote sound moral and religious values.
5. Promote social equality and responsibility.
6. Promote respect for and development of Kenya's rich and varied cultures.
7. Promote international consciousness and foster positive attitudes towards other nations.
8. Promote positive attitudes towards good health and environmental protection.

The right to education in Kenya is provided for under the Constitution. Key international instruments defining the right to education include:

- The Universal Declaration of Human Rights.
- The International Covenant on Economic, Social and Cultural Rights.
- The United Nations Convention on the Rights of the Child (CRC).
- UNESCO Convention Against Discrimination in Education.
- The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).
- The Millennium Development Goals (MDGs).
- The African Charter on Human and Peoples Rights.
- The African Charter on the Rights and Welfare of the Child.

The Government and its partners have continued to invest heavily in formal education. In the last decade, for instance, public spending in education in Kenya as a proportion of GDP increased from 5.1% in 1980 / 1981 to 8% in 1997 / 1998. Similarly, the MoE recurrent expenditures share of the total Government recurrent expenditures rose from 35% in 1993 / 1994 to 38% in 1998 / 1999. Reflected in monetary terms, the Government and development partners invest heavily in

education and this category of the economy has continued to attract increased spending. Compared to other countries in Sub-Saharan Africa with similar GDP per capita, Kenya spends considerable more on education in relation to total Government expenditure and Gross National Product. This notwithstanding, the bulk of the Ministry of Education (MoE) recurrent expenditure goes to teacher salaries which stands at about 80 billion. It is only under KESSP that resources were directed at teaching-learning resources and other programmes. There has been several salary increases in 1997 / 1998, pushing the wage bill to 82% of total spending. Currently, the teachers wage bills in primary and secondary education subsectors take 95% of recurrent expenditure.

Enrolment at all levels including primary, secondary and university has continued to increase over the years as well as educational institutions. The gross enrolment rate at primary level in 1998 shows a near gender parity (49% girls and 51% boys) at the national level. However, the situation has been worst for North Eastern Province where girls comprised 16.8% and boys 32.0% (total 24.8%). In Coast Province, boys comprised 79.6% and girls 66.9% (total 73.3%), and in Nairobi, boys comprised 61.6% and girls 52.8% (56.9%). There has been a significant improvement over the years with several intervention strategies adopted by Government and communities to enhance the education of girls and boys.

Table 1.1. Primary Gross Enrolment rate and Net Enrolment Rate, 2004 – 2010

Indicator	2004	2005	2006	2007	2008	2009	2010
GER	108.0	107.6	103.8	108.9	109.8	110.0	109.8
NER	84.5	82.8	83.5	91.6	92.5	92.9	91.4

Table 1.2. Secondary Gross Enrolment Rate and Net Enrolment Rate, 2004 - 2010

Indicator	2004	2005	2006	2007	2008	2009	2010
GER	28.0	28.8	32.4	38.0	42.5	45.3	47.8
NER	19.4	20.5	22.5	24.2	28.9	35.8	32.0

Table 1.3. Pupil Completion Rate and Primary to Secondary Transition Rate, 2004-2010

Indicator	2004	2005	2006	2007	2008	2009	2010
Pupil completion rate (PCR)	78.4	77.6	76.8	81.0	79.8	83.2	76.8
Primary to secondary transition rate	56.0	57.3	59.6	59.9	64.1	66.9	72.5

These trends are indicators of major accomplishments in education. Many people are pessimistic that despite the heavy investment in education by both Government and various players including development partners, parents and communities, the corresponding educational indicators in school participation and achievement has not been matched by a similar triumph. Much more is anticipated.

Some of the critical shortcomings and challenges facing the education system include the following:

- (a) Many children still remain out of school. It is estimated that 1.5 million children are still out of school. These include children with special needs, the handicapped, the exceptionally gifted children, refugees and children in exceptional difficult circumstances.
- (b) Declining enrolment and participation rates at higher levels of education.
- (c) Gender parity has almost been achieved nationally especially in primary schooling. However, there are disparities in regions especially in arid and semi arid lands, areas of informal settlements and hard to reach areas. Gender disparities are evident as one goes up the education ladder.
- (d) Many pupils do not proceed to secondary school. For example, in 1999 the transition rate from primary to secondary was only 44.8% (43.1% for girls and 46.1% for boys). However, this has improved to over 70%.
- (e) Under-enrolment of children with disabilities in formal schools. The education system does not effectively cater for children with special needs including the exceptionally gifted children.
- (f) Inefficiency, poor governance and management of structures and educational institutions are still a poor mark of the present education management.

The number of candidates at KCPE and KCSE is a clear indication that there is bound to be a continued increase in the number of pupils and students at primary and secondary levels, and correspondingly at higher levels. The significance increase in candidature indicates that Kenyans have taken advantage of the free education programmes. It is imperative that the task force should carefully study trends in school enrolment.

Table 1.4. Pupil Enrolment at KCPE 1999 – 2010

Year	Candidature					
	Total	Increase / Decrease (%)	Male		Female	
			Total (%)	Increase / Decrease (%)	Total (%)	Increase / Decrease (%)
2010	746,080	19,026 (2.62%)	388,221 (52.03%)	6,621 (1.74%)	357,859 (47.97%)	12,405 (3.59%)
2009	727,054	31,277 (4.5%)	381,600 (52.49%)	14,475 (3.94%)	345,454 (47.51%)	16,802 (5.11%)
2008	695,777	-9,141 (-1.3%)	367,125 (52.76%)	-5,140 (-1.38%)	328,652 (47.24%)	-4,001 (-1.2%)
2007	704,918	38,467 (5.77%)	372,265 (52.81%)	19,483 (5.52%)	332,653 (47.19%)	18,984 (6.05%)
2006	666,451	-5,099 (-0.76%)	352,782 (52.93%)	-44 (-0.01%)	313,669 (47.07%)	-5,055 (-1.59%)
2005	671,550	13,803 (2.10%)	352,826 (52.54%)	9,847 (2.87%)	318,724 (47.46%)	3,956 (1.26%)
2004	657,747	69,786 (11.87%)	342,979 (52.14%)	39,072 (12.86%)	314,768 (47.86%)	30,714 (10.81%)
2003	587,961	47,892 (8.87%)	303,907 (51.69%)	25,266 (9.07%)	284,054 (48.31%)	22,626 (8.65%)
2002	540,069	25,719 (5.00%)	278,641 (51.59%)	13,897 (5.25%)	261,428 (48.41%)	11,822 (4.74%)
2001	514,350	33,239 (6.91%)	264,744 (51.47%)	16,324 (6.6%)	249,606 (48.53%)	16,915 (7.23%)
2000	481,111	26,567 (5.56%)	248,420 (51.63%)	13,273 (5.64%)	232,691 (48.37%)	13,294 (6.06%)
1999	454,544	8,005 (1.79%)	235,147 (51.73%)	4,063 (1.73%)	219,397 (48.27%)	3,942 (1.83%)

Source: Kenya National Examinations Council

It is noted that enrolment at KCPE has been on an increase, though enrolment lowered in 2006 and 2008. Girls enrolment has been increasing more than boys in 2009 and 2010, as a matter of fact, the increase in girls almost doubled between 2009 and 2010. Gender parity has almost been achieved in Central, Eastern and Nairobi at 50.43%, 50.37% and 50.68% respectively in favour of girls. However, North Eastern province still has great gender disparities in favour of boys though there was a slight improvement in 2010 (73.73% and 26.27% in 2009, and 71.61% and 28.39% in 2010). The number of examination centres in North Eastern Province had also increased from 213 in 2009 to 226 in 2010. Females tend to perform better than males in languages namely English and Kiswahili, while boys tend to perform better in sciences, social studies and religious studies. Similar trends have been noted with slightly higher disparities at KCSE as in Table 1.5 below.

Overall, these are clear indications that much more can be achieved in education for at all levels.

Table 1.5. Student Enrolment at KCSE 2001 - 2010

Year	Number of Centres	Candidature					
		Total	Increase / Decrease (%)	Male		Female	
				Total (%)	Increase / Decrease (%)	Total (%)	Increase / Decrease (%)
2010	6,004	357,488	20,084 (5.95%)	198,100 (55.41%)	13,537 (7.33%)	159,388 (44.59%)	6,547 (4.285%)
2009	5,600	337,404	32,389 (10.62%)	184,565 (54.70%)	18,974 (11.46%)	152,839 (45.30%)	13,415 (9.62%)
2008	5,183	305,015	28,776 (10.42%)	165,591 (54.29%)	15,464 (10.30%)	139,424 (45.71%)	13,312 (10.56%)
2007	4,833	276,239	32,786 (13.47%)	150,127 (54.35%)	21,056 (16.31%)	126,112 (45.65%)	11,730 (10.26%)
2006	4,506	243,453	-17,212 (6.60%)	129,071 (53.02%)	-12,185 (8.63%)	114,382 (46.98%)	-5,027 (4.21%)
2005	4,257	260,665	37,989 (17.06%)	141,256 (54.19%)	21,189 (17.65%)	119,409 (45.81%)	16,800 (16.37%)
2004	3,966	222,676	14,946 (7.20%)	120,067 (53.92%)	8,478 (7.60%)	102,609 (6.08%)	6,468 (6.73%)
2003	3,731	207,730	9,374 (4.73%)	111,589 (53.72%)	5,425 (5.11%)	96,141 (46.28%)	3,949 (4.28%)
2002	3,609	198,356	3,473 (1.78%)	106,164 (53.52%)	1,253 (1.19%)	92,192 (46.48%)	2,220 (2.47%)
2001	3,430	194,883	12,917 (7.10%)	104,911 (53.83%)	6,955 (7.10%)	89,972 (46.17%)	5,962 (7.10%)

Source: Kenya National Examinations Council

The requirement to harmonize education with the new Constitution coincides with the desire to review education programmes following the 2003 National Conference on Education and Training and Sessional Paper No. 1 of 2005 (Republic of Kenya, 2005a) that constitutes the blue print on education, science and technology. Education goals were realigned and were to be realized through a Sector Wide Approach (SWAP) via the Kenya Education Sector Support Programme 2005 – 2010 (Republic of Kenya, 2005b) that provided the road map for education sector development. KESSP was a five year education development with emphasis on the achievement of Millennium Development Goals (MDGs) and Education For All (EFA) by 2015 for all Kenyans. Poverty reduction is a key priority area of KESSP and there are a number of core poverty programmes. The Ministry would implement a follow up programme KESSP II 2011 – 2015. Once again, this is critical as it would be within the new

education framework under the new Constitution and in turn coincide with 2015 when EFA goals would have been expected to have been realized.

1.2. Education in the New Constitution

The Ministry of Education, as a matter of course must set up a task force to review education, science and training in line with the new Constitution. The task force will in turn recommend ways and means of enabling the education system to achieve national unity, mutual social responsibility, as well as lead to accelerated economic, industrial and technological development. This will be through enhancement of life-long learning. Key areas of immediate concern should include: the legal framework of education, science and training; structure of the education system; role of various stakeholders in education and improved co-ordination; teacher management; curriculum and examinations; the management and administration of education; and, emerging issues in education including equity, pastoral care, guidance and counselling, persons with special needs and inclusiveness for all disadvantaged groups.

CHAPTER TWO

KENYAN EDUCATION ORGANISATIONAL STRUCTURE

2.0. Importance of Organisation Structure

An organizational structure is very important. The configuration size, strategy, environment and culture enhance service delivery. This in turn facilitates service delivery and also helps achieve set goals. For instance, education system and philosophy is directly interconnected with the mode of governance, and for Kenya the Constitution as the supreme law of the land. If the new Constitution is to be fully implemented, then the Government structures including education must fit with, and match the change in the environment. Old systems must be improved, while new structures and organizational forms must be initiated. Further, education organizational structure and design are closely entwined with Government structure as well as aspects of human and other resources management. Thus, the education structure has a critical role in the all important dimension of Kenya under the new Constitution.

I argue that the education system in Kenya and the underlying principles must be reconstructed in tune with the core purpose of Government in the Constitution.

2.2. Definition of Structure: The Kenya Education Structure System

The structure of an organization is the pattern of relationships between roles in an organization and the different parts (Mullins, 1993; Mabey, Salaman & Storey, 2001). The purpose of the structure is to allocate duties and responsibilities in order to direct activities and achieve the organization goals. This enables different actors in the organisation to plan, direct, organise and control the activities and programmes of the organization (Mabey, Salaman & Storey, 2001).

I define the educational organization as the structure, both visible, and invisible, that connects and is interwoven with all aspects of educational activities so that the entire education system functions as a complete single entity. That entity must be dynamic to respond to functional roles, professionally designed, and structurally an integrated

part of the overall system. In that case, various stakeholders in education must be part of, and form a facilitating aspect of the education system (Wango, 2006b).

There are various ways of looking at an education structure, especially using the horizontal and vertical approaches. One simple approach is to consider how an organization structure such as education is described when represented as proposed at the County level in Figure 3.2, and the system of education proposed in *Table 3.1* and 3.2. This provides useful insights into the underlying design principles. However, it may not depict the informal structures, though the formal structure is the integral part of the design.

2.1.1. Pre-School Education

Pre-school has previously had a similar structure although it has not been compulsory. This has led to variations among schools and in regions. Pre-school is normally one year and entry is at the age of five years. Nonetheless, many children do not go through pre-school. This is despite the fact that children who have gone through pre-schooling tend to adapt more appropriately in future school. Pre-school in Australia has a similar structure of one year length, though there are slight variations amongst the states and territories.

Physical development in infancy and toddlerhood is important and includes physical and brain changes; development of reflexes, motor skills, sensations, perceptions, and learning skills; and health issues. Children play an active role in their own cognitive development, especially in their attempts to understand, explain, organize, manipulate, construct, and predict. Young children also see patterns in objects and events of the world and then attempt to organize those patterns to explain the world. Learning must be directed towards maximum utilization of these abilities. At the same time, preschoolers have cognitive limitations. Children have trouble controlling their own attention and memory functions, confuse superficial appearances with reality, and focus on a single aspect of an experience at a time. Early childhood (the first five years) is also a critical period for language acquisition as children increase their use of language and other symbols. They develop a fascination with words and engage in playing games. Furthermore, they are better at recognition than at recall memory tasks.

These aspects must be considered in early childhood (pre-school). For instance, preschoolers demonstrate an intense interest in learning; children have an inherent curiosity and what a child may lack in skills is made up for in initiative. Thus, even when learning situations are structured or formalized so that children may effectively succeed in the education system, the teacher in charge must set reasonably attainable goals and provide guidance and support. In addition, it is worth highlighting that children aged between 2 -5 years can think logically, project themselves into others' situations, and interpret their surroundings.

2.1.2. Primary Education

Primary education has a similar more fixed structure nationally; children are expected to enter school at six (6) years and remain in school for eight (8) years. Previously, primary schooling was not compulsory but is part of basic education and hence compulsory in the new Constitution. When free primary education was introduced in 2003, both children and adults who had previously failed to attend primary school enrolled school. The most famous among them was the late Kimani Maruge. In Australia, school education is compulsory until the age of 15 years except in Tasmania where it is compulsory until age 16. More complex behavioural and cognitive abilities become possible as the central nervous system matures. Brain development during middle childhood is characterized by growth of specific structures. Kenya requires determining the compulsory age of primary education as well as defining the system.

2.1.3. Secondary Education

Secondary education is four (4) years. Students are expected to proceed to secondary after KCSE. The age at secondary school is estimated at 15 - 18 years. But once again, with the free secondary education in 2007, there are many students whose age is beyond the secondary school 15-18 years bracket. Options of non-formal education in school require to be institutionalized to take care of the out of school and out of age learners.

2.1.4. Tertiary Education

Tertiary education programmes in Kenya can be divided into two main types: those offered by institutions and industry within the Vocational Education and Training

(VET) sector such as Middle Level Colleges (MLCs) and will include all TIVETs and other middle level training institutions; and, higher education programmes mainly offered by universities and other higher education institutions.

Vocational Education and Training are often competency based. They include Certificates, Diplomas and Higher Diplomas. These should be offered under the National Education Research and Training Framework (NERTF). Higher education offers university degrees and a range of postgraduate awards. Universities also offer several undergraduate programmes. Although the vocational and higher education sectors may appear distinct, there are an increasing number of connections between the two. This is because they both offer programmes that are vocational based. In addition, there is a development into specific degree level programmes for studies undertaken in various sectors. For example, admission into university degree programme may require certain years of work experience in addition to the academic qualification, or to supplement it.

University admission procedures and finances will require to be reviewed to align them with current realities and global trends. These include policies and implementation strategies on admission and financing especially in public universities. Admission requirements for courses at different levels will entail to be prescribed and clearly defined by the individual institutions. Financing of different fields of study and charges will be reviewed upwards because certain courses are more expensive than others.

Higher and university education planning will require to introduce enhanced financial support for students from lower income backgrounds and increase outreach activities to promote fair access. Proposed progressive and targeted financial aid package will offer support to the most financially disadvantaged students from low income family students and will increase investment in widening access over time. For example, an added advantage is alleviate the primary upfront costs of Higher Education through student's accommodation, by offering an equivalent to the average annual cost of catered halls of residence or alternatively a partial fee waiver. Universities can offer tapered financial support for students with low family income, and this should be clearly defined.

Overall, the quality of education at these levels must be standardized and highly maintained.

2.1.5. Education Institutions and Schools

Government Schools are the direct responsibilities of state education. This is likely to continue and may be the more appropriate way forward. Non-Governmental schools are not subject to direct ministerial control, but they operate, and will continue to operate under conditions set by state Government including registration and supervision.

2.2. Children with Special Needs, Disabilities and the Gifted

Children are a very vulnerable group. Children with disabilities, the gifted and talented and those with special needs often find themselves in difficult circumstances in accessing quality education. The needs of vulnerable children are largely similar to those of other children in various aspects, but they differ in that these children require additional support. The Ministry of Education has a special needs education policy that is intended to improve the quality and access to education for children with special needs (Republic of Kenya, 2009). However, it is evident that a majority of these children do not access quality education. Education must move towards inclusiveness to improve access to education for all children including children with disabilities, the gifted and talented and others with special needs.

Currently, children with physical handicaps are given an extra thirty (30) minutes after the end of the examination. At university, Masters Students with disability especially blindness and those who use the computer to type are allowed an extra one (1) hour after the designated end of the examination. This can be punitive and tends to make them feel inadequate as they remain in the examination room while others have already completed the examination. Instead, perhaps they should be allowed to commence the examination thirty (30) minutes or one (1) hour earlier than the regular students. Then they can take a break of 5 – 10 minutes as the regular students join them and the examination papers are distributed. Eventually they resume as the regular students start the examination so that they end together at the designated time.

Students with special needs include those who cannot read clearly. For example, children with writing disability form the highest proportion yet they are most neglected in the system. There are cases of children who are unable to follow simple instructions. It is proposed that all teachers should undertake a course in special education. It is also recommended that provision should be made for the supervisor to read for such a student all the examination questions loudly before the start of the examination. Then, the students can take their own examination papers and resume the examination.

2.3. Education Structure Support Systems

The education system must be supported by several key structures that enhance the overall management of the system. These include: curriculum and assessment, teacher training and management and the need to ensure quality of education standards. There are various SAGAs that include TSC, KNEC, KIE, JKF, KLB, KESI, CHE, HELB, and KISE. The roles and responsibilities must be clearly defined, as well as the relationship with educational institutions such as primary and secondary schools, teacher training colleges, universities and polytechnics.

2.3.1. Quality Assurance and Standards

Schools and educational institutions including higher learning must establish and maintain high quality teaching, and learning. In addition, courses and services are maintained at international standards. Colleges and universities must be registered, have their courses accredited and continue to ensure high quality of courses and programmes.

2.3.2. Teacher Management

Teacher management in Kenya has been largely the responsibility of the Teachers Service Commission (TSC). The TSC was established in 1967 by an Act of Parliament, Cap 212 with the mandate to perform the following core functions: registration; recruitment; deployment; remuneration; promotion; management of discipline and maintenance of teaching standards in all public educational institutions in Kenya. Prior to the establishment of TSC, a number of bodies such as local authorities, District Education Boards, religious organizations and the central Government employed teachers. The enactment of the TSC therefore facilitated the

bringing together of all teachers then serving in public educational institutions under a single employer with harmonized terms and conditions of service.

Enrolment in primary schools increased from 7.2m in 2003 to 7.4m in 2004. As a result, the pupil teacher ratio in primary schools increased from 40:1 in 2003 to 41:1 in 2004. In 2010, 18,000 school teachers were recruited, 4,000 new classrooms built and 2,145 other classrooms rehabilitated.

The TSC is now established in the new Constitution. The functions of the Commission are:

- (a) To register trained teachers;
- (b) To recruit and employ registered teachers;
- (c) To assign teachers employed by the Commission for service in any public school or institution;
- (d) To promote and transfer teachers;
- (e) To exercise disciplinary control over teachers; and,
- (f) To terminate the employment of teachers.

In that respect, the Commission shall:

- (a) Review the standards of education and training of persons entering the teaching service;
- (b) Review the demand and supply of teachers; and,
- (c) Advise the national Government on matters relating to the teaching profession.

All matters pertaining to teachers will be the responsibility of the TSC. Though the Public Service Commission (PSC) under Section 234 (2) shall establish and abolish offices in the public service and appoint persons to hold or act in those offices, and to confirm appointments, this does not apply to the TSC.

Under Section 235 (1) A County Government is responsible, within a framework of uniform norms and standards prescribed by an Act of Parliament, for:

- (a) Establishing and abolishing offices in its public service;

- (b) Appointing persons to hold or act in those offices, and confirming appointments; and,
- (c) Exercising disciplinary control over and removing persons holding or acting in those offices

This clause, however, shall not apply to any office or position subject to the TSC. This in essence implies that TSC shall be fully responsible for teacher's appointment and deployment, exercise disciplinary control and assure teaching standards of persons entering the teaching service.

2.3.3. Curriculum and Examinations

Curriculum requires to be regularly reviewed to meet the dynamics of a changing society. This is often through a National Assessment System (NAS). It is critical that key stakeholders especially teachers are involved in both review and piloting of the curriculum. An important aspect of assessing the curriculum is to regularly undertake continuous assessment and summative evaluation.

Education policymakers and the public all over the world are involved in arguments for and against national examination testing. This is because the curriculum must be evaluated. Assessment is part of the curriculum process and examinations are a very pertinent and volatile issue in education. National testing proposals or Standard Assessment Tests (SAT) are based on the proposition that: examination is a measurement of the skills acquired in important areas in education; national examinations meet the need for greater uniformity; and, examinations monitor and evaluate the performance of the system. Proponents of national tests often endorse the development of a national examination system based on performance assessments. Others have also called for single tests, primarily multiple-choice, in different subject areas in a number of grades. There has also been a call to develop individualized standard tests based on National Assessment of Educational Progress test items.

The case of national examinations has consistently been opposed by others who argue that all national examinations proposals put the cart of testing before the horse of educational objectives. They propose that the harmful effects of this effort tend to fall most heavily on low-income and minority-group children. Proponents against national

examinations have argued that national assessment and testing does not necessarily improve education and that examinations may not directly assess higher order thinking, problem solving abilities, creativity, or initiative.

It must be acknowledged that none of the proposals adequately address issues of equity. The argument that examinations create social inequity cannot be adequately substantiated; instead education has a strong causal impact on individual earnings and economic growth. Thus, examinations do not perpetuate sorting pupils and students by any social class. However, it is acceptable that bias issues in performance assessments are not necessarily addressed adequately.

In Kenya, the National Education Goals and the Kenya National Examinations Council has a national examination system on Educational Standards and Testing based on performance assessments. This follows designed examinations from specific curriculum. There are many issues that must be resolved before it is reasonable to consider the removal of the present national examination system especially KCPE to simply push students through to secondary. For instance:

- There is lack of an educational philosophy based on general consensus on educational practices and outcomes;
- There is no widely accepted set of skills, standards and attributes that are expected as outcomes of an education;
- Testing by itself does not improve education: assessment; it is only part of an integrated process of systemic change which addresses issues of curriculum, instructional practices, staff development, school structure and governance, textbooks, and schools of education; and,
- Equitable access to educational opportunities and resources and other necessary prerequisites of pupils and students learning precede national examinations.

These are issues that must be resolved before such a drastic change of magnitude as the removal of national examinations and in particular KCPE examination. Any proposal in education must be part of a broader plan, a policy that also integrates education objectives, quality of standards, teaching and learning, national assessment

(National Assessment Centre, NAC) and national goals. This is because even subject area groups suggest it could be a decade before complex debates over curricular content and instructional methods are resolved, if ever. In addition, proposals in education affect many pupils such as the present enrolment of 8.6 million pupils in public primary schools, and suggestions must therefore be part of an overall comprehensive educational strategy.

2.4. Language

In Kenya, the language of instruction has been English and Kiswahili. In Canada, the primary languages are English and French. The Constitution stipulates that the national language of the Republic is Kiswahili, while the official languages of the Republic are Kiswahili and English. In addition, the state shall promote and protect the diversity of languages of the people of Kenya, and promote the development of the use of indigenous languages, Kenya Sign language, Braille and other communication formats and technologies accessible to persons with disabilities. Under Section 44, every person has the right to use the language and to participate in the cultural life of the person's choice. In that case, the Ministry will uphold the use of Kiswahili, English and Sign language as compulsory subjects in schools, but promote the teaching and learning in a language of the catchment's area, or Kiswahili. This is also the case in Malawi.

2.5. Contemporary Issues in Education

Free and compulsory basic education allows children access to education without payment of levies or charges. The Government must remove obstacles that hinder children of school age from accessing and completing basic education, especially in many rural areas, Arid and Semi Arid Lands (ASAL) and urban informal settlements. Under FPE, anyone who wishes to go to school is eligible to do so. However, there is the obvious feeling that adults, some over fifty (50) years and therefore way older than the parents, should not be placed with children, but instead be encouraged to join adult classes even if they missed the opportunity to be in school.

Contemporary issues in education must be formally addressed. These include the following: Adult and Continuing Education (ACE); HIV and AIDS; School Uniform; Child Participation and Protection; School Support Services including guidance and

counselling, life skills and pastoral care; and, the role of parents and the community in the provision of education (Wango, 2006a; 2006b). These may be highlighted as follows:

- Children must be recognised as active agents in their own learning and that education is designed to promote and respect their rights and needs.
- In essence, it may be imperative to formalise the formal and non formal education system.
- The right to education is a means to reduce disparity and poverty. The role of parents including provision of school uniforms and other support services such as classrooms must be duly taken into careful consideration both at national and local levels.
- All stakeholders in education should have an ownership of education programmes as a right, rather than an option. Based on this common approach, education service delivery requires increased partnership between the Government, parents, teachers, communities, leaders, faith based organisations, civil society, trade unions, private investors and development agencies.
- Perhaps over age children may be enabled to attend school by establishing a class, or a cluster of schools to serve over age children to take in inclusion.
- A text book has a life of four (4) years and the targeted text book pupil ratio is 1:1. Thus, schools have to continuously replenish their stock. Schools also face challenges when books are lost by pupils and students and it is quite a challenge to send the child home and demand that the parent replace the lost book. There are also cases of text book thefts.

The following are discussed in slightly greater detail.

2.5.1. HIV and AIDS

HIV and AIDS epidemic is a global concern. HIV and AIDS education programmes must aim to bring about positive behavioural change especially in young people who tend to be at higher risks of infection. In that case, the school must integrate and infuse HIV and AIDS information across the entire curriculum. Substantial information on adolescence health development in the context of life skills and living

values must be enhanced. The complexity of the behavioural change process requires a dynamic approach that takes in the reality of the prevailing community.

2.5.2. Gender Equity in Education

Equal access of boys and girls and all other learners to education, research and training is a key measure of progress towards gender equity. Gender equity in educational opportunities is therefore a major issue that requires policy consideration. In Kenya, gender parity at primary and secondary level is being realized. However, gender disparities persist in certain regions especially in arid and semi-arid areas, hard to reach areas, adult basic education and urban informal settlements. Disparities are more evident in secondary and higher levels of education including universities and technical training institutions well as in adult basic education. Constitutionally, all persons are entitled to equal rights and opportunities including education. Education takes cognisance and encompasses other Government policies such as health and environmental issues, the Children's Act and the Sexual Offences Act as well as other contemporary gender and human rights issues.

Several obstacles still inhibit especially girls and women access to education limiting their participation in social economic and political development. These can be summarised as: policy, cultural, attitude, specific measures and monitoring and evaluation.

These include:

- Social cultural attitudes and practices that negatively impact on access to education especially for girls. These include: making payments of levies for boys a priority in the face of limited financial resources; boys looking after animals in pastoral communities; allocating girls domestic chores that lowers the standard of performance; early marriages; school girl pregnancy and, female genital mutilation;
- Unfriendly school environment, including poor and inadequate infrastructure which disapprovingly affect children including girls, and children with special needs;

- Inadequate female and male role models including teachers especially in some rural, arid and semi-arid areas;
- Inadequate community awareness on the importance of educating both girls and boys, males and females;
- Gender -inappropriate teaching learning methods;
- Gender studies and issues are often confused or mistaken for women activism and feminism, and this tends to create resistance especially from the males;
- Inadequate provision of critical personal items especially sanitary pads for girls;
- Inadequate policy guidelines implementation in gender and education at the level of the school and community;
- Child labour that tends to affect both boys and girls;
- Additional levies imposed in schools that places a burden for parents;
- Negative impacts of HIV and AIDS as girls and women tend to be more vulnerable to HIV infection, and to carry the greater burden of taking care of the sick including parents and thus fail to attend school;
- Poor performance especially for girls in the majority of subjects especially in science and mathematics due to wrong perceptions / attitudes; and,
- Gender based violence including sexual harassment leading to school dropout and early pregnancy.

A database will require to be established by the TSC for all teachers accused of sexual offences. Any complaint received against any teacher would be stored in the database, including the outcome of the case. This would speed up investigations and conclusions of reported cases as the teacher can be tracked even after a transfer. Private schools can in turn make reference to this data and thus fail to employ a teacher who has been dismissed by the TSC on account of immoral conduct.

2.5.3. Adolescence, Growth and Development

Education must, of essence, aim to achieve individual development and fulfilment. This involves the opportunity for maturation, growth and development. Pupils and students must have an opportunity to interact with teachers and the wider world, by

being provided with opportunities for maximum development and potential. A vital element of individual development is positive character formation. This emancipates from a planned and focussed approach on the needs of pupils and students, so that the child/ren will have a central role in the community.

2.5.4. Guidance and Counselling, Life Skills and Peace Education

School guidance and counselling, and other support programmes such as pastoral care, peace and conflict management, and life skills education aim to foster the overall growth and development process. Parents and teachers must work together in creating a supportive school and home environment that supports healthy behavioural patterns and character. This requires an approach that aims at fostering the moral and spiritual values, in order to help children grow into self –disciplined, self –reliant and socially integrated individuals.

Street children who have been exposed to drugs and others who have emotional stress require to be rehabilitated so as to fit into regular schools. This will necessitate guidance and counselling to be conducted in close collaboration with social workers and the Children’s Department.

2.5.5. Religion and Philosophy

Religious organisations have always played an important role in education. The new Constitution has no state religion and therefore, all religions are equal.

It will be expected that religious institutions will:

1. Continue to promote spiritual growth and nourishment;
2. Promote education, counselling and character formation;
3. Supplement efforts in expansion of educational institutions;
4. Assist in provision and supply of basic teaching and learning materials; and,
5. Mobilize and sensitise communities on their roles in developing education infrastructure

Religion will provide counselling and character formation as the foundation of faith based religion conviction.

2.6. Establishment and Maintenance of Educational Institutions

The new Constitution will mean increased chances for all children to join school. This does not necessarily require parents and communities to build new schools. Instead, communities will be encouraged to improve, refurbish and use existing facilities including schools and faith based buildings. Use of local materials is greatly encouraged. Nevertheless, the Government will not stop the building of new schools based on need.

Where schools have to maintain certain facilities and services for pupils and students such as lunch programme, boarding facilities, swimming, computer lessons, bus and transport, these will be charged for maintenance and sustainability. Parents should discuss, agree and reach consensus on the need for the levy then seek the approval of the Ministry of Education through the Education Board. Projects should be prioritised and only key projects should be approved, and even then one at a time completed so that parents are not overburdened.

2.7. Conclusion

Education must take cognisance the social economic community and a global economy. For instance, the Government must inevitably continue to supplement parent's efforts in managing low cost schooling. Support will include school feeding programmes in areas of poverty as well as ASAL. This is because schools are expected, and will enrol all children of school age without discrimination in line with the Constitution. In that case, schools will have to be all inclusive and cater for all children from various social economic background, including: children with special needs; refugees, orphans and most vulnerable children; internally displaced and street children; and, those from informal settlements.

CHAPTER THREE

MAJOR INNOVATIONS: REORGANISING EDUCATION UNDER THE NEW CONSTITUTION

3.0. Moving Towards Change: Change or Innovation

The new Kenya Constitution has once again re-awakened the sensitivity of reform in the education sector. It is now mandatory for children to complete basic education. In essence, basic education is free and compulsory. Fees guidelines and the role of KCPE as the basis to determine admission and progression to secondary education require review. On one hand, the implementation of a revised education system will involve increased costs, structural adjustments and improved institutional administration and management. On the other hand, stakeholders in education will call for expeditious implementation of education under the new Constitution on the basis of efficiency, effectiveness and integrity.

Wango (2009:255) summarizes education change as follows:

For change to be effective, it must be well thought out and connected to the main purposes of education hence the need to look at the national objectives of education and the objectives at each level and at the level of the school. Thus, any change must have value, have a goal and the desired outcomes that it will serve clarified before embarking on the change process.

This paper is an awakening to this reality of education in the new Constitution. It logically bridges the gap in education policy implementation by examining some of the key cost policy aspects and highlighting their implications on the implementation of the Constitution.

3.1. The Present Education System: Strengths and Weaknesses

The development of education in Kenya since independence in 1963 has been marked by various changes and challenges. Education has had a tremendous impact on national development. Over the last 47 years, the education sector has undergone about ten reviews by special commissions and working parties set by the Government (Republic of Kenya, 1964; 1976; 1981; 1988; 1999). The rationale for these reviews has been to improve the efficiency and effectiveness of the education sector. This has

included a change from the former 7 – 4 – 2 - 3 (7 years primary, 4 years secondary 2 years Advance or A level secondary education and 3 years of university education for a basic bachelor degree) system to the current 8 – 4 - 4 (8 years primary education, 4 years secondary and 4 years of university education for a basic bachelor degree).

3.1.1. Education and the Law

The new Constitution represents a new beginning in Kenya in the process of transformation. More fundamentally, it renews the faith of Kenya in the rule of law and establishes value driven national institutions. This is because it restores integrity in governance institutions especially the Executive, Parliament and Judiciary. In addition, it represents a unique opportunity for national healing and reconciliation. The new Constitution has ushered in a spirit of hope and expectation among the people.

The Constitution captures the values and principles of the Universal Declaration of Human Rights including:

- Equality
- Non –discrimination
- Equity
- Social justice.

Further provisions include social economic and cultural rights in conformity with the International Convention on Economic, Social and Cultural Rights. There are provisions for civic and political rights as well as solidarity rights including the right to a clean and healthy environment thereby embracing all three generations of rights. The new Constitution is progressive, comprehensive and all-encompassing. Education must of necessity embrace these values at all levels.

Constitution has various implications on education and it is imperative that Sections relating to education are fully understood. The following are highlighted:

1. The Constitution is categorical in Section 53 (1) b. that every child has the right to free and compulsory education. A child is defined as an individual who has not attained the age of eighteen (18) years. Henceforth, the

Government through the Ministry responsible for Education must, as a matter of course, define basic education and declare the same free and compulsory. Basic education in Kenya would consist of pre-primary, primary and secondary schooling. The age and number of years at each level must be defined (see structure of education Tables 3.1 and 3.2) and may not exceed eighteen (18) years.

2. The sovereign power of the people is exercised at two levels:
 - (a) The National level; and,
 - (b) The County Level.

In that case, education administration and management will be both centralised at the National level and decentralised at the County level, as well as the level of the school.

The National Government is responsible for education policy, standards, curricula, examinations and the granting of university charters, as well as universities, tertiary educational institutions and other institutions of research and higher learning and primary schools, special education, secondary schools and sports education institutions. The functions and powers of the County Government are: pre-primary education, village polytechnics, home craft centres and childcare facilities.

3. The Teachers Service Commission is established in the Constitution and will register, recruit, employ, deploy, promote, transfer and exercise disciplinary control over teachers as well as terminate their employment.
4. The people may exercise their sovereign power either directly or through their democratically elected representatives. In that case, the school management has to be more inclusive and accommodate the diversity of values and opinions of the local community and pupils and students.
5. The national language of the Republic is Kiswahili. The official languages of the Republic are Kiswahili and English. Besides, the state shall promote and protect the diversity of languages, promote the development and use of indigenous languages, Sign language, Braille and other communication accessible to persons with disabilities. Therefore, the state shall promote the

official and other languages, as well as sign languages even in the education curriculum including in tests and measurements such as national examinations.

6. There shall be no state religion. In that case, spiritual growth and nourishment as accomplished through religious teaching can be a part of the curriculum where the individual is allowed a choice to study the subject but cannot be compelled to study the subject.
7. The National symbols, values and principles of governance and culture are exemplified in Sections 9, 10 and 11. These must be taught and upheld especially national unity, the rule of law, democracy and participation, human dignity and rights, social justice, and accountability. These will be applied in education to ensure inclusiveness including gender equity and consideration for persons with special needs including physical facilities, school rules and regulations, choice of subjects and careers, and improved governance and accountability. National and cultural expressions including literature, arts and writings shall promote a national cultural heritage. The establishment of students' council will be aligned to the new Constitution.
8. The Constitution under Section 43 guarantees economic and social rights including health, clean and safe water and social security. In particular, a child's best interests are of paramount importance in all matters concerning the child (Section 53 (2)). Consequently, schools will in future pay close attention and implement more effectively policies on health, security and improved infrastructure. These include the following programmes: child friendly schools; school safety and security; guidance and counselling, HIV and AIDS and life skills education development; infrastructure development; and, improved sanitation.
9. The accounting and auditing of public entities, procurement of goods and services and auditor general (Section 226, 227, 229) provides for several requirements that include:
 - (a) Keeping of financial records and auditing of accounts;
 - (b) Contracting of goods and services that is fair, equitable, transparent, competitive and cost effective; and,
 - (c) The Auditor General may audit and report on the accounts of any entity that is funded from public funds. The audit report shall confirm

whether or not public money has been applied lawfully and in an effective way.

This will require more prudent use of public funds and an institutionalisation of the Code of Conduct and Ethics.

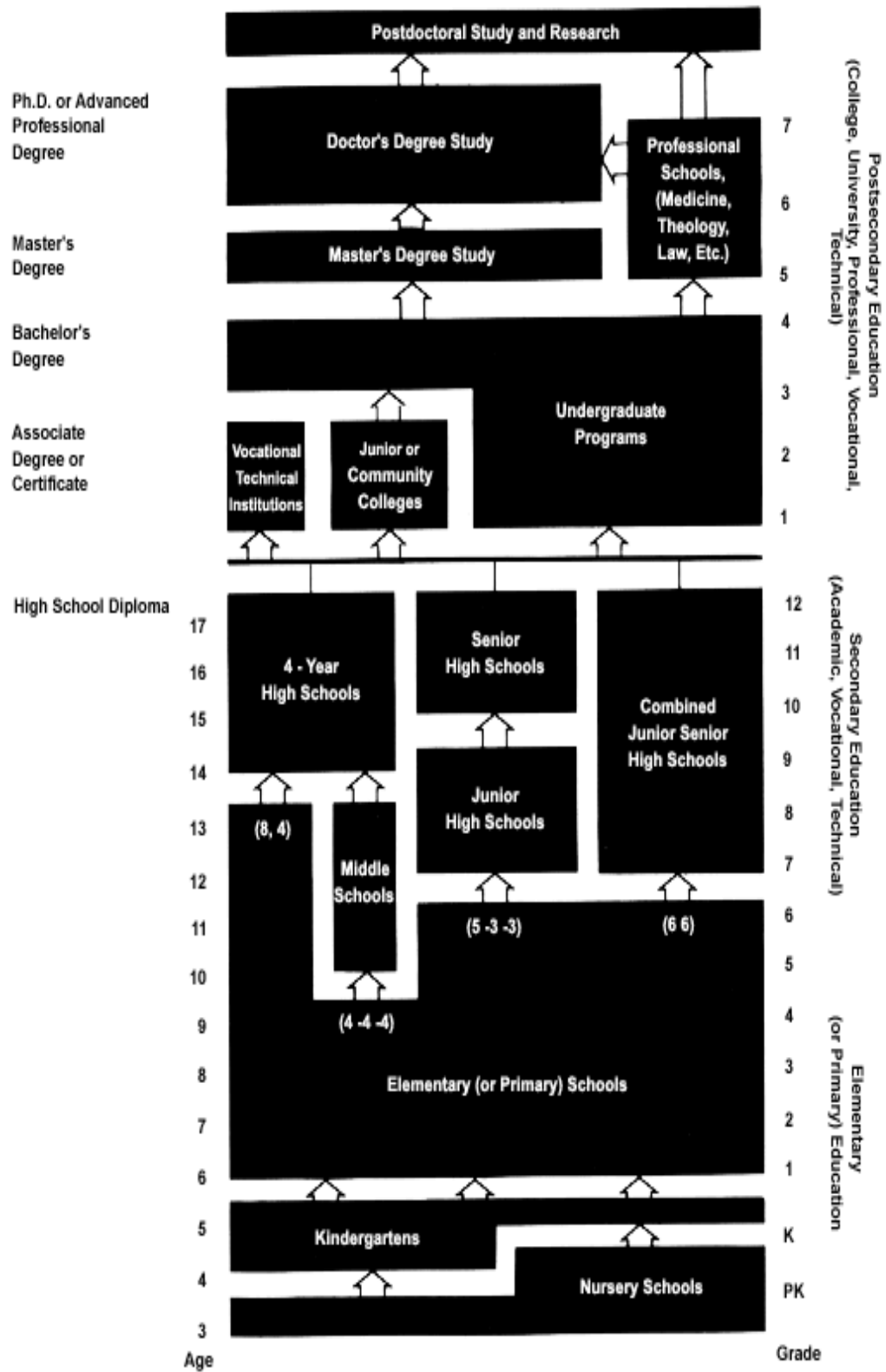
The school syllabus will also make changes to align relevant content in Social Studies, History and Government. Basic changes will include the replacement of the provincial administration with County Governments and inclusion of dual citizenship.

3.1.2. System of Education

In Kenya, the current education system is defined as 8 - 4 - 4, that is 8 years of primary school, 4 years of secondary schooling and 4 years of university education. This actually leaves out the pre-school that is often vague. Nonetheless, Kenya might borrow from other countries with a similar system of education. The school calendar in Kenya starts in January to November. In essence, the education system in Kenya clearly requires further redefinition. Kenya must look to other countries for further guidance such as USA and Canada that are more advanced.

Education in Canada is generally divided into primary education, followed by secondary education and post-secondary. Within the Provinces under the ministry of education, there are district school boards that administer educational programmes. Education is compulsory up to the age of 16 in every province in Canada, except for Ontario and New Brunswick, where the compulsory age is 18. In some Provinces early leaving exemptions can be granted under certain circumstances at 14. Canada generally has specified school days that amount to 190 school days in the year. Schools officially start from September to the end of June. The United States of America (USA) education system appears understandably large and more varied. This complexity reflects the history, culture, and democratic values. This is characterized diversity in organizational structure and marked increasing decentralization. In that case, key aspects such as enhancing national unity, peace education, guidance and counselling in schools, inclusiveness in education in terms of gender and persons with disabilities, the gifted and other persons with special needs must form a key component of the education system.

Figure 3.1. The Structure of Education in the United States



Source: U.S. Department of Education, National Center for Education Statistics.

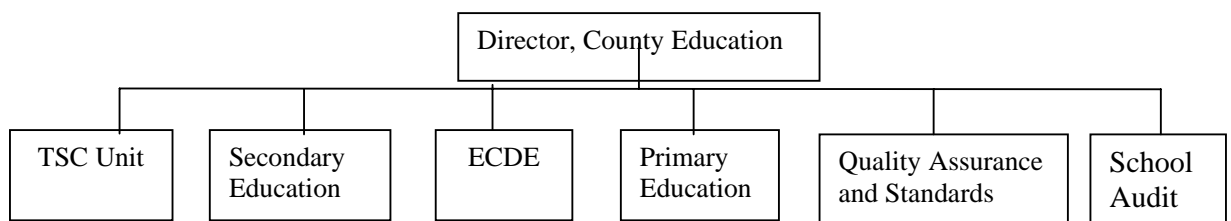
The structure of the United States education structure is reflected in Figure 3.1. above. This chart reflects typical patterns of progression rather than all possible variations.

3.1.3. Improved Teacher and School Management

All teachers on TSC payroll will be optimally utilized. This will be on the basis of Curriculum Based Establishment (CBE) and the school enrolment. Teacher balancing will require to be carried out on regular basis taking into consideration both the enrolment and the curriculum establishment. Provincial Directors of Education (PDEs) and District Education Officers (DEOs) that have facilitated this regulation will in line with the new Constitution cease to be the centre of authority. Instead, management of education will be at two key central points: the Headquarters, and at the County.

At the County, education will be under the Director County Education (DCE) or County Director of Education (CDE). S/he should not have a deputy but instead six (6) divisional head, that is, TSC Unit, Secondary Education, ECDE, Primary Education, Quality Assurance and Standards Officer and Head of School Unit. Each of these Units will have staff members to assist in various duties.

Figure 3.2. Organisation of Education at the County Level



This would allow the TSC to function as a Unit as well as other sections such as quality assurance and standards and school Audit. An education officer, TSC Director County Management, Quality Assurance and Standards Officer and School Auditor can be posted to each district / division in the County to oversee effective coordination of activities.

It is highly suggested that teacher management in all cases of shortages and hence recruitment in primary and secondary schools be done at County level. In this way, it is further suggested that Counties and not schools employ teachers when there is a shortage in the school. This would be in line with poverty eradication as it would reduce the burden of payment of teachers by parents, especially when the shortage is so intense that a school has to employ 4 – 5 teachers. The County Management would also be asking whether the school itself is a viable project and therefore commit themselves to the establishment. This would in turn ensure that teachers in the same County are paid at a flat rate.

In the same way, it is suggested that all members of support staff in schools be employed and paid by the County. This is once again premised on the motivation to address issues of equity, poverty alleviation, employment creation and put the Country and Counties on a rapid economic viewpoint. This would standardise salaries, increase salaries in certain cases, establish a minimum wage, set working conditions, and once again enhance development at the County level. In retrospect, this would also correspond with Government policy of containing the wage bill at a certain percent of Gross Domestic Product (GDP), and such funding catered for to ensure sustainable macroeconomic stability at County level as well as further austerity measures in the County Budget.

3.1.4. New Curriculum and Examinations

It is very important to understand the implications of policies designed to improve educational outcomes. The timing of education reform in line with the new Constitution is therefore important in two ways: the curriculum content to be taught in schools; and, the means of assessing that curriculum such as national examinations. Student performance must be achieved and assessed. In addition, reforms must also be put in a broader perspective. Thus, quantity and quality of education must be combined. Lack of assessment of student outcome clearly makes any system of direct rewards for success difficult, if not impossible. To say that pupils and students will simply transcend from one level to another may in the end be counterproductive. Yet free and compulsory education defines a structure and a system up to a certain level.

3.2. Innovations in Education, Training, Science and Technology

The system of education and a clarification of free and compulsory basic education will require to be specified. All the teaching and learning during the compulsory stage will be based on the National Curriculum. Whatever system of education is adopted, it will have to include as free and compulsory two stages:

- (a) *Pre-School*. One year of pre-unit just before proceeding to primary school (when child is 5 - 6 years).
- (b) *School*. This will consist of twelve (12) years of schooling broken into two: primary school (6 - 13) and secondary (15 - 18).

It will be compulsory to produce a birth certificate as proof of age. In addition, parents / guardians will be sued for failure to take a child to school.

3.2.1. A New System of Education of Education

Pre-school will be compulsory (5 - 6). This stage will include playschools, playgroups, parent and toddler groups, nursery schools, kindergarten and pre-preparatory and all such units will be subject to quality assurance and standards. If children enter a school before they are 5, they will be in the Reception class and parents will make own private arrangements and not at the expense of the school. Pre-school units should be established in every primary school though the child does not have to necessarily join a particular pre-school so as to be in the respective primary school. A greater part of this is to review and develop materials on Early Childhood Development, Education and Care (ECDEC). The National Centre for Childhood Education (NACECE) will require reviewing and developing materials including extended research in this specialised area.

Table 3.1. Key Stages, Age Groups and School Year

Key Stage	Age Group	School Year	Notes
Pre School	Pre Unit 5 – 6	1	This is the Foundation Key Stage. All Primary schools will be required to have a pre-school. Teachers will be paid by Government or county and not parents or community.

Primary	Class 1 6 - 7 Class 2 7 - 8 Class 3 8 - 9 Class 4 9-10 Class 5 10-11 Class 6 11-12 Class 7 12-13 Class 8 13-14	8	There can be a SAT at the end of this course such as KCPE or other examinations are taken.
Secondary	Class 1 14-15 Class 2 15-16 Class 3 16-17 Class 4 17-18	4	There will be a SAT at the end of this course such as KCSE or other examinations are taken.
Higher		4	University and Tertiary Education is not free and compulsory
<i>NB. The ages are the age of children when they enter and end the school year in December.</i>			

School will be compulsory from 6 – 18 years. This stage will be broken into two: primary (6 – 14 years) and secondary (14 – 18 years). A Standard Assessment Test (SAT) such as KCPE at the end of the two stages will have to be very carefully designed so that it is both inclusive and all encompassing.

Whether the country will adopt the present 1 - 8 – 4 - 4 system of education or review to an A level 1 – 7 – 4 – 2 - 3 system is also a matter that requires debate. Two scenarios are possible and may be presented here as follows:

Table 3.2. Proposed Key Stages, Age Groups and School Year

Key Stage	1 - 8 – 4 -4 System		1 – 7 – 4 - 2 - 3 System		Notes
	Age Group	School Year	Age Group	School Year	
Pre School	Pre Unit 5 - 6	1	Pre Unit 4 - 5	1	Foundation Key Stage.
Primary	Class 1 6 - 7 Class 2 7 - 8 Class 3 8 - 9 Class 4 9-10 Class 5 10-11 Class 6 11-12 Class 7 12-13 Class 8 13-14	8	Class 1 5 - 6 Class 2 6 - 7 Class 3 7 - 8 Class 4 8 - 9 Class 5 9-10 Class 6 10-11 Class 7 11-12	7	There can be a SAT at the end of this course such as KCPE or other examinations are taken.
Secondary	Class 1 14-15 Class 2 15-16 Class 3 16-17 Class 4 17-18	4	Class 1 12-13 Class 2 13-14 Class 3 14-15 Class 4 15-16	4	There will be a SAT at the end of this course such as KCSE or other examinations are taken.

Higher Education			Class 4 16-17 Class 5 17-18	2	
Higher		4		3	University and Tertiary Education is not free and compulsory
		17		17	Number of years will have been in school are the same
<i>NB. The ages are the age of children when they enter and end the school year in December</i>					

The A level 1 – 7 – 4 – 2 - 3 system unlike the 1 - 8 – 4 - 4 system of education will require children to enter pre-unit at age 4 and not 5 so that pupils and students in school are defined as children (below 18 years).

3.2.2. Personnel Structure

Provinces as units of administration are no more in the new system of Government and their role will be taken over by county level administration. In that case, the Ministry of Education will locate its second tier of top officials after the national level at county headquarters. The reform will also in turn affect the TSC in charge of teacher management. Ministry of Education as well as organisations in charge of various aspects (SAGAs) will provide coordination, oversight and issue appointment letters for officers working in various areas. This is to ensure integrity in various educational process, uniformity of educational standards and a harmonized centrally managed system through a decentralised Government. For instance, pre-school teachers will be employed by the central Government through the TSC to promote early childhood education, but the teachers will be recruited at the level of the school. TSC is a Constitutional office and teachers will draw their salaries from the consolidated fund, just like members of parliament and the judiciary instead of the treasury.

3.2.3. Education Administration and Management

Highly certified and regulatory systems cannot, and will not work effectively without a broadening of programmes, otherwise called decentralisations that are effective in different situations. Therefore, education will be managed centrally at National and at County levels. There is need for improved education and school administration and management. For effective administration, all school heads in primary and secondary

schools should be referred to as school principal. Heads of primary schools are often referred to as head teachers while heads of secondary and other higher institutions are referred to as principals. A common title would enable their roles and functions to be clearly defined and stipulated in the new education act.

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, should be managed by a Board of Management (BOM) that includes the principal as secretary, two teachers as members of the board, parents, school sponsor and members of the community. The BOM should replace and usurp the powers of the Board of Governors (BOG), School Management Committees (SMC) and replace the Parent Teacher Association (PTA). Such a school governing body as the BOM (BOG) will have far more influence and power and make important decisions affecting the quality of education provision in the school. DCE will confirm the appointment of all BOGs in the primary schools under their jurisdiction. For secondary schools, a recommendation will be made by the DCE to MOE headquarters. All managers will be referred to as governors and continuously trained and inducted on their roles and responsibilities. The chair of the Board can be elected by the members of the management, or at the selection of the BOG. A teacher or parent in the school cannot, and should not be chair of the management.

A school governing body should have the following membership:

Figure 3.3. Membership of the Board of Management

	Membership	Secondary	Primary
1	Parent Governors (elected every year, cannot be chair)	4	8
2	Governors appointed by the school sponsor or community for a community school (3 years)	4	2
3	Teacher Governors (elected every year, cannot be chair)	2	2
4	County MOE Representative (cannot be chair)	2	1
5	Co-opted members (elected three years)	3	3
6	Principal / Head teacher (Secretary of the Board)	1	1
	Total	16	16

The management 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 school head, parents and all other partners.

3.2.4. Education Institutions and Credentials

The different types of institutions of higher education and learning must be categorised and the courses offered specified.

Types of institutions may include the following:

Figure 3.4. Types of Higher Education Institutions

- University
- Open University
- College and Institution of Higher Education
- Open College
- College of Technology
- Teacher Training College
- Institute

The credentials attained at various levels must be specified. These are outlined below.

Figure 3.5. School Leaving and Higher Education Credentials

- School Certificate
- Certificate
- Advanced Certificate
- Diploma
- Higher Diploma
- Post Graduate Diploma
- Degree (First Professional Degree)
- Master's Degree
- Certificate of Advanced Study
- Doctorate
- Post Doctorate
- Associate Professor
- Professor

It is imperative that a National Qualifications Framework (NQF) structure be developed on qualifications that will adopt an internationally common qualifications system. This is to enable national recognition of acquired skills and knowledge as well as encourages life-long learning.

3.2.5. International Students' Admissions

Kenya's education system is internationally recognized. International students will continue to be enrolled in various educational institutions. The new Constitution defines citizens very clearly and education must encourage and identify international students. An international student is a person enrolled at an institution of education in Kenya but is not a permanent resident. The admission requirements must be specified especially language requirements and that they must hold qualifications equivalent to students admitted at that level. In addition, other requirements such as entry regulations including passport, visa, health requirements and evidence confirming their registration in full-time courses and evidence of funds will apply. This includes recognition of other international systems such as the British system of International General Certificate of Secondary Education (IGCSE), International Baccalaureate (IB) and the Scholastic Assessment Tests (SATs) under the American curriculum. The general application procedures will apply as well as individual institutions and course programme requirements.

3.2.6. Chartered School

A charter school is a public school that functions as a semiautonomous unit. The charter is a document that declares the school's special purpose and outlines the rules of operation. A charter school is completely publicly funded. In that case, it is not permitted to select students, may or may not have religious instruction, and does not charge tuition fees. It is required to teach the national curriculum, to have a board of governors and to be strictly accountable to the agency that grants the charter. Depending on the legislation that is designed to cover charter schools, a school will have what is called a '*sunset clause*'. That clause will come into effect when the school is evaluated after a prescribed number of years to find out if the objectives set out in the school charter are met, or else the school is closed. The legislation also determine who may establish a charter school, such as groups of parents, teachers, administrators, universities, school boards or ministries or education.

Charter schools are funded by the chartering agency (a county, district school board or ministry) on a per-pupil basis and are not subject to most of the policies that govern other public schools. For instance, the school prescribes staffing and equipment requirements and determine budgetary priorities within the limits of their funding. Charter schools do not have the freedom of independent schools that tend to have more curricular flexibility and are not fully funded by public funds. In contrast to private schools, chartered schools are not profit making. They may exist in present school buildings, must employ certified teachers, and they are subject to annual audits. Some of the specific characteristics of these schools are that they cannot deny access to students as long as space is available.

The major barriers to chartered schools are lack of initial funds, fiscal financial management, and facilities. Proponents of chartered schools argue that public schools are not flexible enough to meet the needs of pupils and students. Public schools are seen as bound by excessive regulations, and are not responsive to the demands of pupils and students, parents or the community. Chartered schools are perceived to allow for more innovative educational practices and more choices of education programmes. Persons and groups opposed to chartered schools are convinced that pupils and students in charter schools receive diverse kinds of education, thus reducing the common core of learning. In addition, they argue that the quality of education would largely depend on how well the parents are financially endowed as they would be attended only pupils and students of parents who have the means to establish them. That would create a category of two contrasting schools; chartered schools for the well to do; and, public schools that may not compete fairly. Thus, the ability of public schools to offer equal educational opportunity for all pupils and students would be undermined.

Charter schools exist in New Zealand, England, United States and Canada. In New Zealand, each public school is chartered to reflect the diverse priorities of the families and communities. In England, grant-maintained schools are independent of their local educational authorities and are chartered by the central Government. The United States has about 200 charter schools, many of them in Minnesota and California. Some of the schools are small with an average size of 287 students, while many are oversubscribed. It is important to note that almost a half of them are designed to serve

at-risk students with an integrated curriculum, technology, and emphasis on basics. Schools are made accountable through test results, or surveys conducted on parental satisfaction. Alberta is the only province with charter schools in Canada, and they were established to allow greater innovation, increase educational opportunities available to students and permit more parental choice.

The establishment of charter schools in Kenya requires further investigation and legislation.

3.3. Cost and Financial Implications of the New Education System

The implementation of the education under the new Constitution has direct and indirect cost and financial implications to Government, parents and other stakeholders. The education, like the new Constitution must of essence embrace various aspects to reflect a holistic and inclusive education system. Schools will ensure strict adherence to financial regulations. In addition, schools will make certain core programmes such as personal emoluments, statutory obligations, utilities and other commitments are done as and when they fall due. In addition, planning, prioritization, allocation and reallocation of funds should not intensively interfere with key Government programmes such as poverty eradication.

An immediate administration matter is the realignment of funds sent to schools in line with the school calendar, January – December and not the Government financial year, July – June. This requires money to be sent in three instalments, that is Term 1, Term 2, and Term 3. This could be sent in percentages of 50%, 30% and 20% respectively in terms 1, 2 and 3, that would consequently be reflected in Tables 3.4. and 3.5.

Education in Kenya as in Canada is a state-run system of public education. It is provided, funded and overseen by federal, provincial and local Government. Presently, education is within provincial jurisdiction of the Provincial Director of Education and District Education Officer and the City Director of Education as well as the Municipality. The curriculum is overseen by the province and district while in Canada it is overseen by the Province. Similarly, education under the Constitution in Kenya will be within the state and overseen by the county, supervised by the Director County Education.

3.4. Projections: Pupils, Schools and Teacher School Requirements

It is imperative to project on pupils and students enrolments in order to determine future requirements in the education sector. Projections are based on various policy documents including the population census, vision 2030, documents in education, the poverty reduction strategy paper, recommendations of various reports and Government's objective to attain Universal Primary Education (UPE) by 2015 as well as the MDGs. This enables derive various ratios critical in deriving the required costs. These are: (a) pupil teacher ratio in primary (40: 1), secondary (35: 1) and, (b) book pupil ratio of 1.2. The average pupil teacher ratio in sub-Saharan Africa is (40: 1) in primary and (26: 1) in secondary, while the book pupil ratio is 1:3. The average lifespan of a book in Kenya is three years and this is congruent with several countries in Sub-Saharan Africa which is lower than four years.

Equally, the Ministry has to perform projections at all levels to establish teacher and infrastructure requirements. As is evident, the primary pupil population is anticipated to increase by about 26% in the next five years, representing a growth of 5.2% per annum. Similarly, additional classes, equivalent to 3,000 new schools, may be required at the primary level in the respective period. Projections should also include children with special needs as well as orphans and other vulnerable children. This is because education programmes will be directed at reaching out to all persons. There are an estimated 500,000 children with disabilities who are out of school for one reason or another. Chief among the reasons is the stigma often associated with these children, and parents therefore tend to 'hide' them at home. The new Constitution allows a life of dignity and an opportunity for learning.

Anticipated projections will be as follows:

Table 3.3. Projections: Pupils, Schools and Teachers 2010 - 2015

	2010	2011	2012	2013	2014	2015
Pupil Population						
Early Childhood						
Primary						
Secondary						
University						
Schools						

Primary						
Secondary						
University						
Teacher Requirements						
Primary						
Secondary						
University						

Projections must be done for pupils and students with disabilities.

3.5. Average Unit Cost of Basic Education

In January 2003 when free primary education (FPE) was introduced, over one million children, who were previously out of school enrolled in primary schools that brought the total enrolment to 7.2 million children. To finance the FPE, the Government invested an additional Kshs.12.6 billion, comprising of both recurrent and development expenditures. A large part of this money was provided by Government and development partners. The breakdown of the cost is as outlined in Table 3.4.

Table 3.4. Free Day Secondary Education Cost per Child

	Vote Head	Amount (Kshs.)	Amount (\$)
1	Tuition	3,600	45.0
2	Repairs, Maintenance and Improvement	400	5.0
3	Local Travel and Transport	400	5.0
4	Administration Costs	500	6.25
5	Electricity, Water and Conservancy	500	6.25
6	Activity Fees	600	7.5
7	Personal Emoluments	3,965	49.6
8	Medical	300	3.75
	Total School Fees	10,265	128.3

Conversion kshs. 80 to one dollar (\$)

The money is disbursed per term according to the allocation per students as follows:

Table 3.5. Government Subsidy for Secondary Allocation per Tranche

	Vote Head	Tranche 1	Tranche 2	Tranche 3
1	Tuition	1,800.00	1,080.00	720.00
2	Repairs, Maintenance and Improvement	200.00	120.00	80.00
3	Local Travel and Transport	200.00	120.00	80.00
4	Administration Costs	250.00	150.00	100.00

5	Electricity, Water and Conservancy	250.00	150.00	100.00
6	Activity Fees	300.00	180.00	120.00
7	Personal Emoluments	1,982.50	1,189.50	793.00
8	Medical	150.00	90.00	60.00
	Total School Fees	5,132.50	3,079.50	2,053.00

This requires review and prioritisation as suggested in this paper and in turn, cost of basic education directly and indirectly will greatly increase over time. Parental obligations should be clearly explained rather than the present apathy that the Government should, and will provide for everything.

There is need to improve infrastructure and quality education countrywide. Having placed many pupils and students in school through Free Primary education and Free Tuition in Secondary Schools, the focus must be to put them with a teacher and in a class. A teacher naturally comes before a class as pupils and students have achieved tremendously with a teacher while learning under difficult circumstances. It is now time to improve quality of education throughout the country and in the County. This requires an additional cost in the annual allocation towards payment of teachers and running of schools. In the 2009 / 2010 financial year, the Government allocated an additional KShs.1 billion each to Free Primary and Free Secondary Tuition to take care of increased cost of goods and services. This is through a countrywide programme to upgrade infrastructure and quality of education in order to give the children a better foundation consistent with the requirements of the modern labour market.

Education has also been decentralized to the constituency. The Government in 2009 / 2010 allocated Ksh 1.5 billion or Kshs 7 million per constituency for the up grading of two primary schools, and equipping them with water harvesting and underground water storage facilities. In addition, a few secondary schools are to be established as Centres of Excellence in every constituency and the Government allocated Ksh 6 billion or Kshs 30 million per constituency for the construction of one secondary school as a centre of excellence. The upgrading programme would provide equal life-long opportunities to all pupils and students throughout the country. An additional allocation was made of Ksh 1.3 billion or Kshs 6 million per constituency for recruiting additional 10,500 primary school teachers on contract or 50 primary school

teachers per constituency to improve the quality of educational service, and an additional Ksh 353 million or about Ksh 2 million per constituency was allocated to recruit additional 2,100 secondary school teachers on contract terms, or 10 teachers per constituency as a first step. Finally, in recognizing the need to hook schools to the ICT grid and promote e-learning, Ksh 1.3 billion or Kshs 6 million per constituency was allocated toward the purchase of a digital laboratory bus. These and other future initiatives must be geared upon enhanced quality educational opportunities for all.

Ultimately, the Government has to consider carefully changing the school calendar year from January – December to September – August in tune with the Government financial year that runs from June to July. This would mean Term One will be September to November before the pupils and students go for December recess. Term Two would be January to March and Term Three May to July. National examinations would be in June – July. Examinations would be conducted away from other national events such as the anticipated December elections, heavy rains in October / November that presents several challenges including floods, the Nairobi International Trade Fair and December fun fair. Students reporting in Form One for instance would report in September / October of the year.

3.6. Governance and Accountability

Government, organisations and institutions must have value for money. Government and institutions are continuously carrying a value for money audit. This is to determine the extent to which organisational activities are aligned to set goals. In that case, service delivery should be converted into service outcome.

Schools will be expected to demonstrate cumulative accomplishment that encompasses both the resource (finance) and the curriculum. Cumulative accomplishment will include the challenges and possible intervention strategies. It is also possible, and in all likelihood that Government will now adopt a more strict Public Expenditure Tracking System or service (PETS). This will involve or require public disclosure of information on budgeting and expenditures in public institution. This includes revenue (receipts) and expenditure (withdraws) to minimise on fraudsters.

Ultimately, institutions and school will adopt a results based logical framework that will interpret performance in terms of planning and effective utilization of resources. This is the basis for strategic management and performance contracting. This will involve an internalized effective Quality Assurance and Standards (QAS) of the curriculum and school finance management audit. This will include accounting records and control.

3.7. Pupil Level Annual Schools Census

Education is linked to national development. One of the key ways to make this important connection is through a Pupil Level Annual Schools Census (PLASC). All maintained primary, secondary and special schools should provide data on individual pupils and students as part of the annual schools' census. This allows data on pupils and students at their level at a particular time and hence the pupil level annual schools census. Such data can be used to derive tables for projections in Table 3.3 above.

Further, schools should introduce a Unique Pupil Number (UPN) that enables the Ministry of Education to trace where the child is in school, even when they transfer or drop out before the child has completed school. A pupil level Common Basic Dataset (CBDS) can be made available like in England where all pupils in maintained schools have unique pupil number (UPNs). In the past, the focus has been on collecting simple aggregated data for pupils and students.

A PLASC should be effective in Kenya as from January 2012. It will provide a better insight into the effectiveness of national polities thus improvements in evidence based decision-making including gender, children with special needs and ethnic monitoring. Schools should ensure that pupil records are kept complete and accurate and are compatible with the pupil level CBDS. In effect, every school should have an Internet linked management computer although further surveys can be conducted if this can be done using the mobile phone. All schools will have to complete PLASC and this will be compulsory. PLASC should be fully automated and thus easier to carry out and take less time than ordinary data collection.

Data relating to individual pupils and students which has been collected at different times can further be linked using unique pupil numbers to create profiles of each pupil

and their progress. This is also useful in planning and national census and can be linked to the national statistics grid. However, the most important especially in financing of education in primary and secondary schools under FPE and FDSE respectively is that the information can be used for immediate use in allocation of money to schools per pupil. This has potential to raise standards through improving the management of individual learning and teaching in schools. There is also much more scope to conduct analyses of the relative performance of particular subgroups, thus enabling comparisons to be made with the progress of individual pupils.

3.8. Conclusion

The Kenya Education Sector Support Programme (KESSP) overarching goal is enhanced access, equity and quality of education at all levels. This is measured towards the relevant targets based on Economic Recovery Strategy (ERS), Sessional Paper No. 1 of 2005 and progress towards relevant EFA and MDG goals. Similarly, education in Kenya under the new Constitution will be projected towards such an overarching target; it will be a meaningful change from within rather than without. Wango (2009:259) argues that change is inevitable and often associated with positive improvement. Change can be constant, immediate or gradual. To many people, change signifies newness of ideas, opinions and such positive ideals. Thus it is assumed that change is positive rather than negative as a better option or alternative. Equally awesome, the expectations in the new Constitutions are enormous as far as changing the lives of ordinary Kenyans are concerned, and education must deliver on the promise.

The next Chapter summarises some of the anticipated changes in line with the new Constitution as highlighted in this paper.

CHAPTER FOUR

INNOVATIONS: REORGANISING EDUCATION UNDER THE NEW CONSTITUTION

4.0. The Emergence of a New Conceptual Framework

Access to education is one of the highest priorities on the development agenda in the world, and in Kenya. Educational quality has a strong causal impact on individual earnings and economic growth. This is greatly significant in Kenya as a developing Country and where education is the way out of abject poverty. The education review must focus on structure, management, policy framework and curriculum. This must be anchored on prudent fiscal policies within a stable macroeconomic framework. A development effective education strategy in Kenya should thus focus on access, quality and relevance of education. Whether that is within the present system of 1 - 8 - 4 - 4 or another such as 1 - 7 - 4 - 2 - 3, the quality of schooling must be paramount in a global economy. Reducing disparities in access to, and the quality of education must be simultaneously pursued.

4.1. Recommendations

Next and in line with the legislative and judiciary system, education must set the pace for key reforms under the new Constitution. Perhaps this is only because legislative procedures are pertinent to the effective implementation of the Constitution. This must demonstrate the management and administration both at national and County levels. Education administration and management must be formulated on a background of tight fiscal framework and clearly laid down financial obligations. Kenya too will be a pace setter in the region and is likely to set up a model to be studied and enumerated in many countries especially in the developing world.

Education and schools will be modernized and thus adopt aspects of modern management (Wango, In Process). This includes Performance Based Budgeting (PBB) that seeks to link between budget and the results (outcome). The budget is therefore a Performance Budget (PB); it is in line with programme activities and aligned to the work plan. This must include a School Infrastructure Improvement Programme (SIIP) to maintain existing facilities and perhaps construct additional

facilities. Examinations, assessments and professional qualifications are also increasingly becoming important outside the mainstream educational, training and research institutions. Assessments in the world of work must secure outcomes or results. Examples of assessment in the world of work include Performance Contracting (PC), ISO certification, Staff Performance Appraisal (SPA), and aspects of school management systems including Outcome – Based Education and Training (OBET) that will have an impact on overall education. Schools and other educational institutions have already embarked, or are in the process of linking these ideas to work performance.

The following recommendations are suggested with regard to the respective aspects:

Figure 4.1. Suggested Innovations in Education Under the Constitution

	Aspect	Recommendation
	Task Force on new education structure and programmes	- Set up a Task Force on Education, Science and Training to review education in line with the new Constitution.
	Define ministry responsible for education	- Merger of two ministries responsible for education to one Ministry.
	Management of education at County	- Appointment of Senior Education Officer in charge of Education in the County (Director, County Education). Minimum qualifications should be a Masters degree.
	Empowerment of parents and communities	- Both Primary and Secondary Schools management by a Board of Management (Governors). - BOM should constitute parents, teachers, school sponsor and members of the local community.
	Upgrading of teacher certificate course	- Teachers training colleges to offer a Diploma in Education or Post Graduate Diploma in Education.
	National Qualification framework	- Task Force on Education, Science and Training must define national qualifications that clearly stipulates the level and qualification (<i>Fig. 3.5</i>).
	Education Act	- Harmonization of all acts and policies in education, science and technology as well as research and training. - National Education Stakeholders Workshop / Conference.

		<ul style="list-style-type: none"> - New Education Act. - More comprehensive Act including the role of principals and head teachers, teacher management, a more defined and inclusive Board of Management (BOM), international students' admission and other key aspects previously omitted in the present education Act.
	Provision of basic free and compulsory education	<ul style="list-style-type: none"> - Definition and stipulation of basic education.
	Increased National Schools	<ul style="list-style-type: none"> - More National schools to be established, that is two National schools in each County, Male and Female to promote nationalism.
	Review of Government subsidy in primary and secondary schools	<ul style="list-style-type: none"> - At present, the Government provides Kshs. 1,020 per pupil in primary schools and Kshs. 10,625 per student in secondary school. This requires review.
	Improved education management and administration	<ul style="list-style-type: none"> - Appointment of Country Director of Education by Ministry of Education to ensure quality of standards in education in all regions.
	Structure of education	<ul style="list-style-type: none"> - Review of education curriculum. This must begin with a critical review of the number in primary and secondary school.
	Governance and accountability	<ul style="list-style-type: none"> - Strict adherence to financial and procurement procedures through sensitisation, training and enforcement of governance and accountability. - Electronic Fund Transfer (EFT) system, PETS and SMSS in schools.
	Sessional Paper	<ul style="list-style-type: none"> - National Conference followed by a Sessional Paper to guide education in Kenya. - Sessional paper to guide education in Kenya in line with the Constitution.
	Teachers houses	<ul style="list-style-type: none"> - Counties will be encouraged to build quality teachers houses to attract highly qualified teachers in their area and schools. This is because TSC will continue to provide house allowances to teachers and schools can rent out to teachers.

The aspects presented in the above table are by no means exhaustive; there will be other crucial aspects that too require to be comprehensively addressed, some immediately while others progressively.

4.2. Final Reflections

Changes in education are inevitable. It must be accepted that the Kenya education system has evolved over time and it is a high-quality system. Nonetheless, there are areas of challenges that require improvement. It must be admitted that a child may not learn everything; and even then, not everything learnt can be, or will be measured in all cases. However, there must be aspects that can be mastered because of their intrinsic value, while others such as principles and standards will be instilled. One of the immediate concerns is a curriculum that over emphasises on academic achievement. Another major issue of concern taking the cue from the 2007 post election violence is how to entrench a system of citizenry education, moulding and mentorship programme. Education must once again take a lead in the third generation of rights including conservation of the environment, HIV and AIDs awareness, life skills education, peace building, conflict resolution and management.

The proposed education system must also open up tracks. For instance, it must not lock out candidates as having ‘failed’ to obtain qualifications to the next level. Instead, there must be areas of potency to enable persons previously kept out of the system entry into the formal system.

Proposals made in this paper must be examined within the present new Constitution that enhances human and Constitutional rights, global trends and economy, the diversity of the Kenyan community, and as a matter of course the broader national goals of education. This is the way for education in the Constitution.

REFERENCES

- Dougherty, K. (2004). *Financing Higher Education in the United States: Structure, Trends, and Issues*. Teachers College, Columbia University: Address to the Institute for Economics of Education, Peking University.
- Elimu Yetu Coalition (2003). *Reform Agenda For Education Sector in Kenya: Setting Beacons for Policy and Legislative Framework*. Nairobi: Elimu Yetu Coalition.
- Mabey, C., Salaman, G. & Storey, S. (2001). 'Organisational Structuring and Restructuring' In Salaman, G. (ed). *Understanding Business Organisations*. London: Routledge.
- Mullins, L. J. (1993). *Management and Organisational Behaviour*. London: Pitman Publishing.
- Republic of Kenya (1964). *Report of the Kenya Education Commission*. Nairobi: English Press Ltd.
- Republic of Kenya (1967). *The Teachers Service Commission 1967 (Revised 1968)*. Nairobi: Government Printer.
- Republic of Kenya (1968). *The Education Act of 1968 (Revised 1980)*. Nairobi: Government Printer.
- Republic of Kenya (1981). *Second University in Kenya. Report of the Presidential Working Party*. Nairobi: Government Printer.
- Republic of Kenya (1988). *Report of the Presidential Working Party on Education and Manpower Training for the Next Decade and Beyond*. Nairobi: Government Printer.
- Republic of Kenya (1999). *Totally Integrated Quality Education and Training (TIQET) Report of the Commission of Inquiry into the Education System of Kenya*. Nairobi: Government Printer.
- Republic of Kenya (2001). *The Children's Act*. Nairobi: Government Printer.
- Republic of Kenya (2005a). *Sessional Paper No. 1 of 2005 on A Policy Framework for Education, Training and Research*. Nairobi: Government Printer.
- Republic of Kenya (2005b). *Kenya Education Sector Support Programme (2005 - 2010). Delivering Quality Education and Training to all Kenyans*. Nairobi: Ministry of Education, Science and Technology.
- Republic of Kenya (2006). *The Sexual Offences Act (Revised 2007)*. Nairobi: Government Printer.

- Republic of Kenya (2010). *The New Constitution of Kenya, 2010*. Nairobi: Government Printer.
- Teachers Service Commission (2002). *Operational Manual on Teacher Management*. Nairobi: The Jomo Kenyatta Foundation.
- Wango, G. M. (2006a). *The Legal Framework for Kenya's Educational System*. Nairobi: Kenya Education Staff Institute (KESI).
- Wango, G. M. (2006b). *The Proposed New Education Act*. Nairobi: Paper Presented to the Task Force on the Review and Harmonization of the Legal Framework on Education, Training and Research in Kenya.
- Wango, G. M. and Mungai, E. K. (2007). *Counselling in the School: A Handbook for Teachers*. Nairobi: Phoenix Publishers.
- Wango, G. M. (2009). *School Administration and Management: Quality Assurance and Standards in Schools*. Nairobi: The Jomo Kenyatta Foundation.
- Wango, G. M. and Gatere, A. W. (In Press). *School Finance Management: Fiscal Management to Enhance Governance and Accountability*. Nairobi: The Jomo Kenyatta Foundation.

APPENDIX 1 Education Structure: Canada

(a) Canada Outside Quebec

The ages are the age of the students when they end the school year in June.

- Early childhood education
 - Junior Kindergarten (ages 4–5) (Ontario only)
 - Kindergarten (ages 5–6)
- Elementary education
 - Grade 1 (ages 6–7)
 - Grade 2 (ages 7–8)
 - Grade 3 (ages 8–9)
 - Grade 4 (ages 9–10)
 - Grade 5 (ages 10–11)
 - Grade 6 (ages 11–12)
 - Grade 7 (ages 12–13)
 - Grade 8 (ages 13–14)
- Secondary education
 - Grade 9 (ages 14–15)
 - Grade 10 (ages 15–16)
 - Grade 11 (ages 16–17)
 - Grade 12 (ages 17–18)
 - Grade 12+ (ages 18+) (Ontario only)
- Tertiary education
 - College: In Canada, the term college usually refers to a community college or a technical, applied arts, or applied science school. These are post-secondary institutions granting certificates, diplomas, associates degree, and bachelor's degrees.
 - University: A university is an institution of higher education and research, which grants academic degrees in a variety of subjects. A university is a corporation that provides both undergraduate education and postgraduate education.
 - Graduate school: A graduate school is a school that awards advanced academic degrees (i.e. master's degree, Ph.D.)

(b) Quebec

- *Garderie* (Pre-school); Under 5
- *Maternelle* (Kindergarten); 5-6
- *École primaire* (literally *Primary school*, equivalent to *Elementary School* or *Grade School*)
 - Grade 1; 6-7
 - Grade 2; 7-8
 - Grade 3; 8-9
 - Grade 4; 9-10
 - Grade 5; 10-11
 - Grade 6; 11-12

- *École secondaire* (literally *Secondary school*, or *High School*)
 - Secondary I; 12-13
 - Secondary II; 13-14
 - Secondary III; 14-15
 - Secondary IV; 15-16
 - Secondary V; 16-17

Secondaries I-V are equivalent to grades 7-11. In most English High Schools, the different terms are used interchangeably. In some English High Schools, as well as in most French schools, high school students will refer to secondary 1-5 as year one through five. So if someone in Secondary three is asked "what grade/year are you in?" they will reply "three" or "sec 3". It is presumed that the person asking the question knows that they are not referring to "Grade 3" but rather "Secondary 3". This can however be confusing for those outside of Quebec who are asking the question.

- College or CEGEP
 - Pre-university program, two years (typically Social Sciences, Natural Sciences or Arts)
 - Professional program, three years (e.g. Paralegal, Dental Hygienist, Nursing, etc.)
- University (Must have a Diploma of College Studies (DCS (*DEC* in French) or equivalent)
 - Undergraduate
 - Three of four years leading to a Bachelor's degree. Non-Quebec students require an extra year to complete the same degree because of the extra year in college.
 - Graduate (or postgraduate)
 - One or two years leading to a Master's degree.
 - Three
 - or more years leading to a Doctoral degree.

English schools in Quebec have the same grade system as French schools, but with English names. For example, "elementary school" is not called 'école primaire' in an English school, but has the same grade system.
