

FREE QUALITY EDUCATION FOR ALL IS POSSIBLE IN KENYA, FOR KENYANS – A POLICY BRIEF

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Introduction

Kenya has ratified and domesticated numerous international treaties, conventions, protocols and agreements that promote education as a fundamental human right with State obligation to promote, protect and fulfil those rights. These instruments assert that everyone has the right to education, and that education shall be free and compulsory, at least at the basic level, and that technical, professional and higher education should be made equally available, accessible, and acceptable to all on merit basis. The goal of education is to attain full development of the human personality and strengthen the respect for human rights and fundamental freedoms. The expectations placed on the governments are to take measures including constitutional anchorage, legislation, policy formulation and implementation; and to provide plans and funds to secure the rights. No country with comprehensive education plans shall suffer non-implementation due to resources constraints, as affirmed by Dakar Framework of Action, concretised through the establishment of Fast Track Education Fund, now renamed Global Partnership for Education.

Kenya is desirous of attaining the highest level of compliance and fulfilment. However, these international and national commitments Kenya has made on the right to quality education for all and lifelong learning remain a pipe dream without a reliable, timely, sustainable and adequate financing.

This policy brief explores the issue of facilitating free quality basic education by establishing a National Education Fund for Kenya. It provides the rationale, principles, process and precise constitutional and legal

anchorage. It has adopted with necessary modifications, the design prescribed by the Kenya Law Reform Commission¹.

Free Quality Education is POSSIBLE: Situation analysis

a) An analysis of the existing legal framework, including international law governing the matter

Kenya has established strategic policy and legal frameworks including the Constitution of Kenya 2010 (Kenya, 2013) – with a vision capturing the *nurturing and protecting the well-being of the individual, the family, communities and the nation, and establishing governance based on the essential values of human rights, equality, freedom, democracy, social justice and the rule of law* – and whose provisions elaborate basic guidelines anchoring the realisation of fundamental rights and freedoms including: sovereign power belonging to the people of Kenya being exercised directly or through elected representatives, delegated to State organs to perform functions to fulfil public aspirations (article 1), obligation to respect, uphold and defend the Constitution (article 3), State obligation to promote and protect the diversity of language of the people of Kenya (article 7), national values and principles of governance that bind all State organs, State officers, public officers and all persons whenever they apply or interpret the Constitution, including making and implement law and policy (10), State obligation to promote cultural expression through literature, the arts, traditional celebrations, science, communication, information, mass media, publications, libraries and other cultural heritage (article 11), bill of rights as integral and the core of every public policy (article 19), State’s fundamental duty to observe, respect, protect, promote and fulfil the rights and fundamental freedoms in the Bill of Rights, through

¹ A Guide to Legislative Process in Kenya (2015) KLRC

legislation, policy and other measures - including the setting of standards, to achieve the progressive realisation of social and economic rights (article 21), enforcement of Bill of Rights by courts when moved by any person in case a right or fundamental freedom in the Bill of Rights has been denied, violated or infringed, or is threatened (article 22), jurisdiction and authority of the High Court to hear and determine applications for redress of a denial, violation or infringement of, or threat to, a right or fundamental freedom in the Bill of Rights, and granting of appropriate relief, including a declaration of rights (article 23), non-discrimination and equality of every person before the law and the right to equal protection and equal benefit of the law, including the full and equal enjoyment of all rights and fundamental freedoms (article 27), right of everyone to education (article 43), *right of the child to free and compulsory basic education, and protection of the child's best interests at all times* (article 53), right of persons with disability to education and economic opportunities (article 54), State obligation including including affirmative action programmes, to ensure that the youth access relevant education and training (article 55), State obligation including affirmative action programmes ensure that minorities and marginalised groups are provided special opportunities in educational and economic fields (article 56), cardinal principles of public finance including openness and accountability, public participation in financial matters, promotion of equitable society, and public expenditure that promote equitable development of the country, including by making special provision for marginalised groups and areas (article 201), basic and non-derogable criteria in determining the equitable share and allocation of public resources/funds to ensure the national interest as FIRST PRIORITY, and this includes social and economic rights, Education being at the core of it (article 203), Equalisation Fund to provide basic services including infrastructure to marginalised areas to the extent necessary to bring the quality of services in those areas to the level generally enjoyed by the rest of the nation, so far as possible (article 204), and procurement of public goods and services including in

Education to ensure an accountable system that is fair, equitable, transparent, competitive and cost-effective (article 227).

b) Education budget trends analysis

Since 2010, Education budget share has continued to increase in differing proportions. There has been fluctuating allocation growth as the growth rate of budget allocation varied, with the largest spikes occurring in 2012/2013 and 2023/2024. This reflects periods of heightened investment, likely tied to specific education initiatives or policy shifts. There has also been expenditure growth variability, where expenditure growth showing more stability in recent years, a positive indicator of improved budget management. This is however not reflected at the schools and other learning centres

From the budget documents reviewed, it can be shown that overall National Budget budget has been steadily growing. The budget grew significantly from KSh. 1.17 trillion in 2011/2012 to KSh. 4.26 trillion in 2023/2024. This reflects a fourfold increase in the total government expenditure over the period. On the Education front, **education budget increased from KSh. 44.8 billion in 2011/2012 to KSh. 689.4 billion in 2023/2024**, indicating a consistent rise in absolute terms. The best budget period for education of **21.63% was in 2013/2014**. This however declined to around **14-16%** from 2014/2015 onward, showing fluctuations in the prioritization of education relative to the overall budget.

- ❖ **Steady Growth:** Both national and education budgets show continuous growth, though the rate of increase in education allocation has lagged national budget growth after 2014.
- ❖ **Prioritization Shift:** The percentage allocation has seen significant variation, suggesting periods of reduced focus on the education sector compared to other priorities.

- ❖ **Recent Trends:** Between 2020 and 2024, education allocation remains stable around 15-16%, reflecting a moderate but consistent prioritization.

In order to sustain better funding and accountability in education sector – need to increase consistency in funding by ensuring that education receives a stable and growing percentage of the national budget, targeting a return to peak levels (20%+); leveraging on international benchmarks by aligning to UNESCO recommendations for education funding (20% of total budget) to enhance global competitiveness; and focusing on strategic investments by prioritizing funding for digital transformation in schools, infrastructure upgrades, and teacher training to maximize impact.

No.	Financial Year	Total National Budget Allocation	Total Allocation to Education sector
1	2011/2012	1,170.5Billion	44.815.9Billion
2	2012/2013	1,049.9Billion	209.3Billion
3	2013/2014	1,136.2Billion	245.8Billion
4	2014/2015	2.11Trillion	305.0Billion
5	2015/2016	2,275.18Billion	329.9Billion
6	2016/2017	2.6Trillion	345.6Billion
7	2017/2018	2.5Trillion	420.2Billion
8	2018/2019	3.1Trillion	460.4Billion
9	2019/2020	3.2Trillion	500.6Billion
10	2020/2021	3.42Trillion	489.35Billion
11	2021/2022	3.33Trillion	527.28Billion
12	2022/2023	3.62Trillion	568.22Billion
13	2023/2024	4.26Trillion	689.4Billion

Education Budget from 2011 - 2024

Problem Statement

Despite the clear provisions of the constitution and attendant legislations, Kenya still faces the challenges of low school enrollment, retention, quality and completion of education cycle by the learners. Chief amongst the causes is poor financial framework by the government and tuition fee demand on learners. A clear mechanism for financial provision is therefore an essential necessity. Basic requirements to be funded include capitation, tuition and scholarships, personnel including teachers, infrastructure, curriculum development and improvements, assessment, evaluation and examinations, alternative certification, and overall administration. A National Education Fund, catering for the needs as stated, and respectful to the constitutionally established commissions and state agencies, should enable the country to improve on financing of education from basic education level to the higher echelons of learning.

Strategies for NEF implementation

In order to address the education funding crisis, several strategies need to be considered:

- a) **Increasing the Budget Allocation:** Raising the percentage of GDP allotted to education by a considerable margin is the first step. In addition to this increase, steps should be taken to guarantee that the money is used effectively and efficiently.
- b) **Reducing Administrative Overhead:** Administrative expenses have to be tightly managed; ideally, they shouldn't account for more than 1% of the overall budget. More funding can be allocated to real educational needs by streamlining administrative procedures and reducing bureaucratic inefficiencies.

- c) Redesigning the Funding approach: The bursary-based funding approach now in place is insufficient. Rather, a funding mechanism that is more equal and stable needs to be devised. A dedicated education fund financed by a particular tax or levy, akin to the housing levy, might be part of this concept. Such a fund ought to be created with precise goals, funding sources and management structures.
- d) Addressing Resource Wastage: It's critical to recognize and take action against patterns of resource waste. To increase efficiency, this involves looking for trends and patterns in the distribution and use of resources.
- e) Aligning Education Policy with Economic Needs: To make sure the educational system satisfies the demands of the regional economy, it should be regularly evaluated and modified. Although the recent change from the 8-4-4 system to the Competency-Based Curriculum (CBC) is a positive move, more alignment is still required.
- f) Ensuring Equity: One of the main objectives in education should be equity. This entails correcting regional inequalities and making certain that all students, irrespective of their financial status, have access to high-quality education.
- g) Enhancing Accountability and Quality Control: Strong systems for both accountability and quality control should be in place within the education fund. This covers setting precise goals, budgeting procedures, and supervision systems.
- h) Addressing of Illegal Levies: Students and their families are further burdened financially by illegal levies that schools levy. To guarantee that no student is unjustly charged, these procedures must to be tightly controlled.

Stakeholder Analysis and Benefits

a) Stakeholders including their roles and responsibilities

The roles of stakeholders in education notably the teachers, administrators, students, parents and local leaders, need to be established through a legislative framework to ensure harmony in execution of their roles

b) Benefits of a NEF

A dedicated and guaranteed National Education Fund would ensure that Kenya meets the Goal of providing holistic and empowering Education for all her citizens. The Fund would ensure that the following objectives are met:

1. Enhanced and equitable access to education for all Kenyan citizens, regardless of their socio-economic background. This fund could provide financial assistance for tuition, books, uniforms, and other educational expenses, making education more accessible to the poor, people with disability and marginalized communities.
2. Ensure Provision of quality education by providing adequate resources for:
 - a. For continuous teacher development
 - b. Ensuring the setting and implementation of standards in the provision of quality education at all levels
 - c. Establishment of standardized infrastructure and improvement of the learning environment, equally in all regions of the country
 - d. Ensuring access to enabling technology in education at all levels
 - e. Continuing research and improvement of the curriculum
3. Long-term Planning: a guaranteed education fund will provides stability and predictability in education financing, allowing for long-term planning and investment in educational initiatives. This will cure the current practice of ad hoc changes in the curriculum and instability in delivery of education.

4. **Reduced Dependence on Donors:** a dedicated national education fund, Kenya could reduce the country's reliance on external donors for education financing. This will give the country more autonomy in shaping its education policies and priorities.
5. **Enhanced Economic Development:** Investing in education is crucial for economic development. A well-educated workforce is essential for innovation, productivity, and competitiveness in the global economy. A national education fund could contribute to Kenya's economic growth by ensuring that its citizens have the skills and knowledge needed for the 21st-century
6. **Fulfilment the following national values and principles-**
 - a. The right of every child to free and compulsory basic Education;
 - b. The right of every youth to Education and training;
 - c. Promotion of quality, relevance, innovation and dynamism at all levels of provision of Education and training;
 - d. Transparency, accountability and democratic decision making within the institutions and processes of Education;
 - e. Protection of the right of every child in a public school to equal standards of education including the medium of instructions used in schools for all children of the same educational level;
 - f. Promotion of peace, integration, cohesion, tolerance, and inclusion as an objective in the provision of Education
 - g. Protection of every child against discrimination within or by an education department or education or institution on any ground whatsoever;
 - h. Promoting independent and critical thinking; and cultivating skills, disciplines and capacities for reconstruction and development;

- i. Imparting relevant knowledge, skills, attitudes and values to learners to foster the spirit and sense of patriotism, nationhood, unity of purpose, togetherness, and respect;
- j. Ensuring human dignity and integrity of persons engaged in the management of Education;

Monitoring and evaluation mechanism

The fund shall establish an M&E framework that incorporate stakeholders in monitoring for accountability

Periodic reviews shall be undertaken to establish the levels of efficacy in the fund meeting its objectives

Provision of a legal instrument to for its operationalization

It is envisaged that by an Act of parliament, key administrative infrastructure shall be established and parliament shall continue to undertake its oversight role on Education as a whole

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