LEAVING NO ONE BEHIND: COVERING THE BASE:

Making Universal Primary Education a Reality for Children in Kenya
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MAKING UNIVERSAL PRIMARY EDUCATION A REALITY FOR CHILDREN IN KENYA
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<th>Description</th>
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<tbody>
<tr>
<td>ASALs</td>
<td>Arid and Semi-Arid Lands</td>
</tr>
<tr>
<td>AMREF</td>
<td>Africa Medical and Research Foundation</td>
</tr>
<tr>
<td>CoK</td>
<td>Constitution of Kenya</td>
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<tr>
<td>CEQASO</td>
<td>County Education Quality Assurance Officer</td>
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<tr>
<td>CRC</td>
<td>Convention on the Rights of the Child</td>
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<td>CRPD</td>
<td>Convention on the Rights of Persons with Disabilities</td>
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<td>DEQASO</td>
<td>District Education Quality Assurance Officer</td>
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<td>ECDE</td>
<td>Early Childhood Development Education</td>
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<td>EFA</td>
<td>Education for All</td>
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<td>FGM</td>
<td>Female Genital Mutilation</td>
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<td>FPE</td>
<td>Free Primary Education</td>
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<td>GoK</td>
<td>Government of Kenya</td>
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<tr>
<td>ICRC</td>
<td>International Convention on the Rights of the Child</td>
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<td>KCPE</td>
<td>Kenya Certificate of Primary Education</td>
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<td>KNUT</td>
<td>Kenya National Union of Teachers</td>
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<td>MGDs</td>
<td>Millennium Development Goals</td>
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<td>NDP</td>
<td>National Development Plan</td>
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<td>NARC</td>
<td>National Rainbow Coalition</td>
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<td>MTP</td>
<td>Medium Term Plan</td>
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<tr>
<td>NGOs</td>
<td>Non-Governmental Organizations</td>
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<tr>
<td>OECD</td>
<td>Organisation for Economic Cooperation and Development</td>
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<tr>
<td>PTA</td>
<td>Parents Teachers’ Association</td>
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<td>PTR</td>
<td>Pupil Teacher Ratio</td>
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<tr>
<td>Acronym</td>
<td>Full Form</td>
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<td>QAS</td>
<td>Quality Assurance Standards</td>
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<td>SAPs</td>
<td>Structural Adjustment Programmes</td>
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<tr>
<td>SNE</td>
<td>Special Needs Education</td>
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<tr>
<td>SDGs</td>
<td>Sustainable Development Goals</td>
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<tr>
<td>TIVET</td>
<td>Technical, Industrial, Vocational and Entrepreneurship Training</td>
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<tr>
<td>TSC</td>
<td>Teachers Service Commission</td>
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<td>UPE</td>
<td>Universal Primary Education</td>
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<td>UNDP</td>
<td>United Nations Development Programme</td>
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<td>UNEP</td>
<td>United Nations Environment Programme</td>
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<td>UNESCO</td>
<td>United Nations Educational, Scientific and Cultural Organisation</td>
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<td>WB</td>
<td>World Bank</td>
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Acknowledgements

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## Definition of Terms

<table>
<thead>
<tr>
<th><strong>Access:</strong></th>
<th>TThe act of gaining entry to school whereby one is considered to have acquired a minimal level of education.</th>
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<tr>
<td><strong>Inclusiveness:</strong></td>
<td>Provision of education to all regardless of their differences in terms of individual ability, social class, gender, ethnicity, geographical location or race.</td>
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<td><strong>Integrated learning:</strong></td>
<td>Having children with disability and the other children learn in the same environment within the school setting</td>
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<tr>
<td><strong>Retention:</strong></td>
<td>Having children with disability and the other children learn in the same environment within the school setting.</td>
</tr>
<tr>
<td><strong>Transition:</strong></td>
<td>State of sustaining school attendance of individual learners throughout the life-cycle of education from entry to exit points.</td>
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Preface

This study was conducted by Laikipia University in conjunction with Kenya National Commission on Human Rights. The Kenya National Commission on Human Rights (herein referred as The Commission or KNCHR) is an independent National Human Rights Institution (NHRI) established under Article 59(1) as read with Article 59(4) of the Constitution of Kenya, 2010 and the Kenya National Commission on Human Rights Act, No. 14 of 2011. Laikipia University, on the other hand, was established by the Government of Kenya through the award of the Laikipia University Charter of 19th February 2013 as per the requirements of the Universities Act, No. 42 of 2012. The Commission, in partnership with Laikipia University carried out the present research on financing of basic education and privatization in Kenya (2010-2015). The study sought to establish the extent to which the escalating cost of education impacts on its access and quality in the light of the Constitution of Kenya 2010, Article 43 (1) (f). Further to this, the study also investigated the extent to which privatization of basic education adheres to/aligns with the Constitution of Kenya (CoK), 2010. This is in line with the Commission’s mandate to advice and support state and non-state actors in the discharge of their obligation. The obligations are to respect, promote and fulfil human rights roles and to advise the various government organs with respect to human rights in the Republic of Kenya.

Key findings of the study indicate that, while the stakeholders in education including the parents, teachers and head teachers are conversant with the aims and policies of free and compulsory basic education, majority do not conceptualize the policy within the wider context of human rights and specifically the rights of the child. The key stakeholders are also largely responsible for the poor performance in the implementation of FPE. In addition, families and communities were not fully sensitized on their roles in the implementation of FPE. This was evidenced by a general lack of coordination among the education agencies and stakeholders in implementing the strategies for FPE. Despite the provision that no parent or guardian is expected to pay tuition for a child in public primary schools, parents continue to shoulder the heavy burden of paying for extra teachers employed by the Parents Teachers’ Association (PTA) and are also required to top up on votes where government funding is inadequate. This is especially so in the votes for extracurricular
activities, examinations and payment of bills. The study also indicates that the policy on the use of mother tongue for instruction at the primary level remains a challenge as many parents, even in rural areas, prefer their children to be taught in English arguing that the Kenya Certificate of Primary Education (KCPE) exam is set in English. Finally for children with disability and children in Arid and Semi-Arid lands (ASALs) and urban informal settlement schools, there is an urgent need for the government and other stakeholders especially NGOs to take affirmative action to allocate more funds due to their special needs. This will enable them to function within the human rights framework. The study recommends enhanced supervision of teachers at the county level by County Education and Quality Assurance Standards Officers (CEQASOs) to maintain standards through performance contracting and continued engagement of teachers as key actors in the implementation of FPE and sustainability of the same.
Executive Summary

This report evaluates the extent to which financing of education impacts on access to FPE in Kenya from a human rights perspective. Kenya has made efforts to legislate the right to education under Article 43(1) (f) of the CoK, 2010 and in other legal frameworks. The Bill of Rights in Chapter Four of the Constitution clearly stipulates that the purpose of recognizing and protecting human rights and fundamental freedoms is to preserve the dignity of individuals and communities as well as to promote social justice and the realization of the potential of all human beings. Further to this legislation is the enactment of the Basic Education Act, No. 14 of 2013 which emphasizes on the need of every child to receive free and compulsory basic education. The Constitution therefore prohibits any kind of discrimination that is a consequence of attitudes and responses to diversity in terms of race, gender, social class, ethnicity, geographical location and ability among others. Moreover, policy frameworks have been developed to guide the implementation of the constitutional provisions relating to the rights of the child and in line with Vision 2030 goals, a long term development policy of the country. Five years after the promulgation of the Constitution upon which these reforms are predicated, it is necessary therefore to take stock of the extent to which the legislative and policy frameworks have been implemented to guarantee access to free and compulsory basic education in Kenya.

The objectives of the study were six fold. The first objective aimed at assessing the extent to which various legislative and policy frameworks have been implemented to guarantee free and compulsory basic education in Kenya. The second objective aimed at determining the extent to which the implementation strategies for free and compulsory basic education have been applied for learners with special needs. Thirdly, the study aimed at assessing the implementation strategies for free and compulsory education in Arid and Semi-Arid Lands (ASALs). Fourthly, it aimed at identifying the gaps that exist in the implementation of free and compulsory basic education. The fifth objective aimed at investigating the challenges affecting the implementation of free and compulsory basic education. Lastly, the study aimed at generating solutions and interventional measures to improve the current status of free and compulsory basic education.
Consequently as a result of the research, the following outputs were envisaged:

- Recommendations on policy gaps to be addressed and the redress of violations of education provision as a human right;
- Analysis of impact of funding in implementation of FPE in relation to:
  - Children with special needs
  - ASAL areas and Urban slum schools
  - Gender; and,
- Policy, legal and other recommendations.

To undertake the research, four researchers from Laikipia University were deployed to the six counties in the coastal region of Kenya to collect data. The data collected were used to prepare the findings and recommendations set out in this report.

**Key Findings**

1. Free primary education has enhanced access, equity and quality of education.

2. The stakeholders in education are well informed with regard to the aims and policies of free and compulsory basic education. However, many do not conceptualize the policy within the wider context of human rights and specifically the rights of the child.

3. Parents still bear costs of education in spite of the government’s efforts in providing free and compulsory basic education.
4. Major education stakeholders were initially not fully sensitized on their roles in the implementation of FPE. This is evidenced in the general lack of coordination among the education agencies and stakeholders in implementing the strategies for FPE.

5. There are no clear guidelines on implementation of the government policy on use of mother tongue as the language of instruction in lower primary schools.

Recommendations

The following are the recommendations emanating from the study:

A) In respect of policy gaps

1. The government should increase the capacity for schools in form of expanded infrastructure, employment of teachers and provision of equipment to cater for the increased enrolments due to FPE.

2. The government should review the current 1,450 shillings per child and ensure that the FPE funds are disbursed in time.

3. Feeding programs and water supply should be instituted in schools in slum and ASAL areas.

4. Strengthen social support in terms of counselling of pupils and parents with the aim of addressing issues like drug abuse and alcoholism.

5. Clear policy guidelines should be put in place on the role of the National and County Governments in provision of education as a human right.

6. A policy on the use of mother tongue in academic instruction in lower primary schools specifically in rural areas should be formulated, taking into account the need to preserve culture. In general terms, the government needs to chart out clear policies in consultation with the devolved government at the county level.
on clear modalities of financing education

B) In respect to:

• Children with special needs

1. The Kenya government needs to increase funding to schools with special units establishments. Further, the funding must be informed by the unit costs for each kind of disability, while strengthening inclusion in mainstream schools.

2. The government should increase and expand special schools to cater for children with severe disabilities.

3. The government needs to involve multiple stakeholders in the management of special needs education who include teachers, parents, communities and NGOs.

• Education in ASAL areas

1. The government should provide schools in ASALs with feeding programs and water.

2. The Government should eliminate costs in education so as to enhance access to education.

3. There is need for affirmative action in provision of education in the hard-to-reach and marginalized areas to ensure that there is equal access in education to all children especially those in ASAL and informal settlements in urban areas.

4. There is need for provision of boarding facilities to enhance retention of children in schools and to increase quality interaction time between teachers and learners.
• Gender

1. The Government should come up with affirmative education programmes aimed at enabling the boy-child in ASAL and urban slum settlements to access, be retained and consequently transit to the next level.

2. Stakeholders in the education sector need to be sensitized on the plight of the boy-child.

C) In respect to Policy, Legal and other Recommendations

1. The government, through the MoE should develop a policy on over-age learners by encouraging them to join adult education classes. On the same note, there is need to revive adult education programmes.

2. KICD should enrich the curriculum by making it more skill-oriented rather than theoretical to promote holistic development of the learners.

3. The KNCHR needs to sensitize stakeholders particularly the local community on the need to respect children’s right to education.

4. The government should enhance equipping of school managers with skills to facilitate efficient and prudent management of the resources under their care.

5. Schools with special units should be equipped with the required resources including increased number of special needs teachers to enhance learning.

6. There is need for the government to expand and increase special schools to cater for the severe and profound cases of disabilities.

7. Government intervention initiatives should go beyond waiver of tuition fees to adopt a critical multifaceted analysis of the social, cultural, professional, technological and environmental issues.

8. The stakeholders in FPE should be sensitised on their roles and responsibilities in order to actualise basic education as a human right. This should start with
the government both at the national and county levels, followed by the local communities, the head teachers and the children respectively.
CHAPTER ONE

Introduction

1.1 Structure of the Report

Chapter one of this research addresses the background to the study, its justification, objectives and output of the study. The Chapter also highlights the methodology employed to carry out the research. Chapter two contains review of related literature. Chapter three discusses results and findings, while Chapter four makes conclusions and recommendations.

1.2 Background to the Study

Kenya promulgated a new constitution in the year 2010 replacing the Independence constitution that had, however, undergone numerous amendments. The Bill of Rights in Chapter Four of the Constitution outlines the rights and fundamental freedoms and commitment by state and non-state actors in implementing the general provisions relating to these rights. Article 19 (2) clearly stipulates that the purpose of recognizing and protecting human rights and fundamental freedoms is to preserve the dignity of individuals and communities as well as to promote social justice and the realization of the potential of all human beings. Further, Article 43 (f) spells out that every person has the right to education while Article 53 (1b) articulates that every child has the right to free and compulsory basic education. Article 27 (4) of the Constitution of Kenya (2010) therefore prohibits any kind of discrimination that is a consequence of attitudes and responses to diversity in terms of race, gender, social class, ethnicity, geographical location and ability among other factors.

It is worth noting that the above provisions on the Bill of Rights is in congruence with the Universal Bill of Rights (UNESCO, 2007) in which the right of the child to education
is predominantly emphasized. In order to operationalize the implementation of the universal human rights especially those related to the child’s right to education, the UN member states congregated in Jomtien, Thailand in 1990 where Education for All (EFA) goals were formulated. The resolution expressed a global commitment to provide quality basic education for all children, youths and adults. The Jomtien conference was followed by the World Education Forum in Dakar, Senegal in 2000, where 164 State governments pledged to achieve EFA goals by 2015. Closer home in context, Article 17 (1) of the Africa Charter on Human and Peoples’ Rights generally stipulates that every individual shall have the right to education. Additionally, Article 11 (1) of the African Charter on the Rights and the Welfare of the Child expresses that every child has the right to education. Article 11 (3) further obligates State Parties to take all appropriate measures with a view to achieving the full realisation of the right to education and in particular to:

a) Provide free and compulsory basic education;

b) Take measures to encourage regular attendance at school and reduce dropout rates; and,

c) To take special measures in respect to female, gifted and disadvantaged children so as to ensure equal access to education for all.

The resolution reiterated the right of every child to education and emphasized the duty of every government to provide education to all its citizens. Being one of the member states, Kenya undertook to implement the African Charter and the Dakar resolutions in 2003 when the NARC government came into power and began to provide the FPE to all primary school children in the country. Kenya has translated the commitments in various international and regional instruments into its development initiatives such as the Vision 2030 under the social pillar which emphasises universal access to education for all children. Following the promulgation of the new constitution in 2010, a chapter on the Bill of Rights was crafted and this saw relevant provisions concerning the rights of the child gain constitutional recognition. Specifically, Article 53 underscores the right of every child to free and compulsory basic education. Consequently, legal policy frameworks
were developed to guide the implementation of the constitutional provisions for free and compulsory education. The Basic Education Act 2013 further defines a child as “any individual who has not attained the age of eighteen years” besides defining basic education as the educational programmes at the pre-primary, primary and secondary levels. Other legal frameworks formulated to guide reforms in the education sector with respect to the rights of the child and in line with the Constitution of Kenya 2010 and Vision 2030 blue print include: the Teachers’ Service Commission Act (2012), the Kenya Institute of Curriculum Development Act (2013), the Universities Act (2012), the Science, Technology and Innovation Act (2013), the Kenya National Examination Council Act (2012), and the Policy Framework on Education and Training in Kenya (2013).

A report by UNESCO (2012) on the progress of Kenya towards the achievement of the six EFA goals in education reported appreciable progress between the years 2004 and 2010 when compared to the Sub-Saharan region and the world. Table 1 is a summary of the progress for the three goals focusing on basic education.

Table 1: Progress towards the EFA Goals Focusing on Basic Education in Kenya, Sub-Saharan Africa and the World

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<tbody>
<tr>
<td>1</td>
<td>Pre-primary gross Enrolment</td>
<td>43</td>
<td>52</td>
<td>17</td>
<td>48</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Primary Net Enrolment Ratio</td>
<td>62</td>
<td>83</td>
<td>76</td>
<td>89</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Lower Secondary Enrolment Ratio</td>
<td>65</td>
<td>91</td>
<td>47</td>
<td>82</td>
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Despite the progress made as observed in Table 1 above, there are still a number of challenges related to the achievement of free and compulsory basic education in Kenya. The UNESCO report (2011) observes that despite the improved enrolment rates in basic
education, there are still many school-going children that are out of school. Accordingly, the report mentions that in 2010, there were 1.5 million children out of school including children with special needs, handicapped and exceptionally gifted children, refugees and children in exceptional circumstances. This finding tends to paint a grim picture on school participation and efficiency of education despite the provision of FPE. Indeed as Wango (2011) observes, declining enrolment and participation rates are evident at higher levels of basic education.

The Basic Education Act (2013) guarantees that no public school will charge or cause any parent or guardian to pay tuition fees for or on behalf of any child in school. According to this Act, every parent whose child is Kenyan or resides in Kenya is required to ensure that the child attends school for purposes of mental, intellectual and social development. However, despite the ban on payment of levies and charges in basic education, there are still serious obstacles that hinder children of school-going age from accessing and completing basic education especially in rural and ASAL areas, and urban informal settlements (Wango, 2011). Areba, Ondimu, Monga’re, and Nyakundi (2013) point out that majority of children continue being out of school due to the hidden costs of Free Primary Education. This indeed affects access to education thereby defeating the purposes of EFA initiatives. Besides access, another problem facing FPE initiative is lower transition rates especially from primary to secondary school levels which stood at 70 percent in 2010 (UNESCO, 2012).

Gender parity and equality in education is an issue of concern for many nations especially in the developing world (Chege & Sifuna, 2006). The Dakar World Education Forum (2000) and the Millennium Development Goals (2000) spelt out the international commitment to guide the achievement of positive results for gender parity by 2005, and gender equality by 2015, in basic education. This was in response to obstacles identified in female education that are often regional and culture-specific hinging on perceived irrelevance and opportunity costs of educating the girl child besides the perceived threat to male hegemony. According to the UNESCO report (2012), Kenya has almost achieved gender parity in primary schooling. However, there are disparities in exceptional areas especially ASAL regions, urban informal settlements and hard-to-reach areas. Gender
disparities are also evident as one goes up the ladder in the education system. Chege and Sifuna (2006) also point out that the curriculum in the education systems in many developing countries tends to favour boys over girls. Within the context of human rights, gender policies should seek to enhance inclusiveness and equality in education. Section 34(2) of the Basic Education Act (2013) clearly stipulates that in provision of basic education, there should be elimination of all forms of gender discrimination. Hence this study undertook to establish the extent to which gender parity has been achieved in light of the FPE initiative from the lens of human rights.

Countries world over have realized the need to develop and improve education for all children irrespective of their varied abilities (Wiles & Bondi, 2008). This is the impetus of inclusive education which is viewed as a reform that supports diversity among learners (UNESCO, 2001). Article 54 (1) (b) of the CoK (2010) stipulates that every person with disability is entitled to access educational institutions and facilities that are integrated into society to the extent compatible with the interests of the disabled person. The Basic Education Act (2013) has also provided for establishment of special needs institutions. The Act outlines the types of disabilities and the curricula in respect of special needs education. However, despite these interventions, there is notable under-enrolment of children with disabilities in formal schools. Wango (2011) decries the education system in Kenya for not being effectively responsive to children with special needs including the exceptionally gifted children. There was need therefore to take stock of the gains achieved so far with regard to provision of quality education to learners with special needs and explore the challenges as well as to find out possible remedies to the existing challenges.

The issue of language of instruction continues to be an area of concern for policy makers but what is clear is that any state keen on nationalism respects linguistic diversity and acknowledges an official multilingual approach. In Kenya, English is the official language of instruction together with Kiswahili, however, although there is no hard and fast rule that children should be taught in their first languages (mother tongue), there is an implication that States should facilitate the use of a child’s first language especially in the earliest years of education for identity construction. Research has shown that learners
learn best in their mother tongue as a prelude to and complement of bilingual education approaches (UNICEF/UNESCO 2007: 77). The policy in Kenya is that children in rural areas should be taught in their mother tongue from primary year standard 1- standard 3. Following this line of thought, the immediate Former Cabinet Secretary (CS) for Education in year 2015 Professor Jacob Kaimenyi emphasized the need to embrace mother tongue as language of instruction particularly in the lower classes. Language policy from the human rights perspective is a way of promoting freedom of expression and speech. Article 44 of the CoK (2010) expresses that every child has a right to use the language of choice and to enjoy the culture that is achieved in the language. This study therefore sought to find out the extent to which FPE has facilitated the use of mother tongue in promoting culture especially in ASAL areas and urban informal settlements in Kenya.

It is important to note that issues of access, retention, and equity in relation to regional diversity and gender are critical in the provision of FPE in Kenya. This research therefore sought to examine these issues from the domain of financing of free and compulsory basic education in Kenya since the enactment of the CoK, 2010 and the Basic Education Act of 2013 with the aim of addressing these gaps and challenges in the context of the human rights framework. Being the first phase of the wider study targeting the entire country, this research was a case study of the Coastal region.

1.3 Justification

Kenya promulgated a new constitution in 2010. The nature and underpinning principles of the education system in Kenya have undergone several changes in order to align with the new Constitution. Various provisions within the Constitution have been translated into legislative and policy frameworks with the aim of ensuring quality education to all children and that the education is inclusive, relevant and competitive regionally and internationally. This has necessitated reforms and innovations in the education sector which include implementation of free and compulsory basic education that has enabled the country to make significant progress towards attainment of Education for All and the Millennium Development Goals.
As Kenya makes strides towards the achievement of the Sustainable Development Goals (SDGs) in 2030 and Vision 2030 objectives, it is important to take stock of the progress made so far to establish the extent to which educational financing impacts on access to FPE especially from the human rights perspective. The study has therefore, provided an objective evaluation of the extent to which the various legislative and policy frameworks have been implemented to guarantee free and compulsory basic education in Kenya since 2010. This was done with a bias on the rights of the child as stipulated in the Convention on the Rights of the Child and the Constitution of Kenya 2010. Moreover, the study has provided an insight into the extent to which human rights have been fulfilled in the provision of free and compulsory basic education in Kenya. It is expected that the results of the study will inform the key stakeholders and policy makers in Kenya on the impetus required to fill in the existing gaps and to tackle the challenges unearthed by the study so as to take the implementation of FPE to the next level. The findings of this study are particularly significant to all teachers with regard to their inclusion as key actors in the implementation of FPE. Abuya et al. (2015) note that teachers are often excluded in the education policy process yet they are in charge of the teaching and learning process in the classroom. They further observe that there is adequate empirical study to support the issues and assertions concerning teachers’ experiences and motivation towards implementation of FPE in Kenya. Similarly, this study provides insights on the importance of participation of parents, NGOs and the communities as key stakeholders in the successful implementation of educational programmes (UNICEF/ UNESCO, 2013).

The research also focused on financing of basic education and privatization in Kenya within the years 2010-2015. Consequently, the study sought to establish the extent to which the escalating cost of education impacts on its access and quality in the light of the Constitution of Kenya 2010, Article 43 (1) (f). Further, the study investigated the extent to which privatization of basic education complies with the legislation above. This is line with the KNCHR’s mandate to advise and support state and non-state actors to discharge their obligation in order to respect, promote and fulfil human rights roles and to advise the various government organs with respect to human rights in the Republic of Kenya.
1.4 Objectives and Outputs

1.4.1 Objectives

The study aimed at achieving the following objectives:

1. To assess the extent to which various legislative and policy frameworks have been implemented to guarantee free and compulsory basic education in Kenya;
2. To determine the extent to which the implementation strategies for free and compulsory basic education have been applied for learners with special needs;
3. To determine the extent to which the implementation strategies for free and compulsory basic education have been applied to realize gender parity;
4. To assess the application of implementation strategies for free and compulsory basic education in exceptional areas including ASAL and hard-to-reach areas;
5. To investigate existing gaps and challenges affecting the implementation of free and compulsory basic education; and,
6. To generate solutions and interventional measures to improve on the current status of free and compulsory basic education.

1.4.2 Outputs

The expected outputs of the investigation were:-

1. To make recommendations on policy gaps to be addressed and redress violation of education provision as a human right
2. To analyse the impact of funding on implementation of FPE in relation to:-
i. ASAL areas

ii. Children with special needs

iii. Gender

3. To come up with policy, legal and other recommendations

1.5 Methodology

This study was conducted in the whole of the Coastal region of Kenya. The latest administrative boundaries of the region, under the new constitutional dispensation of the Republic of Kenya, have given rise to six Counties: Taita Taveta, Tana River, Kilifi, Kwale, Lamu and Mombasa. Purposive sampling was used to select four counties; Mombasa, Kilifi, Kwale and Taita Taveta.

The study was based on a representative sample of the different categories of public primary schools in line with the set objectives of the study. The sampling design was done in stages. In the first stage, the study drew a sample of five out of the six counties based on their varied potentials for capturing a representative sample of the targets represented in the national population patterns. In this respect, the study covered two schools per county giving a total sample of 10 schools. This study by following these procedures ensured that the selection of the schools at county level was unbiased and provided rich information in line with the objectives of the study.

The researchers targeted to draw a representative sample of stakeholders involved in the implementation of free and compulsory basic education within and around schools. The study targeted parents, some of whom doubled up as members of Parents’ Teachers’ Association (PTA), as well as teachers and the head teachers. The selection of the parents was done purposively.

Fieldwork research involved in-depth interviews and focus group discussion, an
important aspect of qualitative approaches adopted for this study since it aimed at enabling those who are being studied to speak for themselves (Sherman & Webb 1988). Once the selection of the schools was done, the head teachers were requested to invite the parents for the interviews. In each school selected for the study two –focus group discussions were conducted, one for teachers and the other, for parents. The study had also targeted to interview the County Education officers, but this failed due to non-cooperation which was a limitation to this study. The groups had to be of mixed gender to avoid bias and to be representative of the community. In some instances, not all members of the targeted number of parents were available for the interview.

The study commenced after acquisition of a research permit. Thereafter, other arrangements were made to recruit two research assistants with a minimum qualification of a degree and who were conversant with the local language that is Kiswahili, which is most commonly used among the people in the Coast region.

For data analysis, the unit of analysis constituted head teachers from the selected schools (9), teachers (61) and parents’ representatives (103). Being a qualitative study, the research employed a mixed methodology design in collecting data by use of secondary and primary sources as proposed by Creswell (2012).

Primary survey data were collected using focus group discussions, in-depth interviews and observations. Focus groups were held for the teachers and parents of the selected schools while the head teachers were interviewed and tape recorded. Through focus group discussions held with the teachers and the parents separately, the researchers were able to get an in-depth understanding of the views from stakeholders regarding the provision of free primary education and the challenges facing its implementation from the human rights view.

The in-depth interviews with the heads of the schools, gave the researchers more information regarding the status of free primary education provision as a basic human right in view of the existing policy and legal frameworks. A total of 18 focus group discussions and 9 in-depth interviews were conducted among the respondents from the selected schools.
Secondary data were obtained through review of relevant policy and legal documents regarding FPE and human rights. In view of this, the following documents were reviewed with the aim of bringing to the fore policy and legal frameworks guiding the education reforms and FPE implementation: Basic Education Act (2012), Constitution of Kenya (2010), Persons with Disability Act (2003), the National Special Needs Education (SNE) Policy Framework (2009) and the Vision 2030 blueprint.

These documents enabled the triangulation of the data obtained from the field within the legal framework. The documents also enhanced understanding and establishing the extent to which FPE was being implemented. Application of the mixed methods in collecting data using different sources guaranteed the validity and reliability of research findings through triangulation by corroborating, elaborating and illuminating the findings as opined by Leedy & Omrod (2006). Secondary data were analysed using the content analysis technique while the qualitative data collected using primary sources (focus group discussions and in-depth interviews) were recorded, transcribed, translated into English (where necessary), and analysed on the basis of emerging themes and in line with the study objectives (Bogdan & Biklen, 2003).
CHAPTER TWO

Review of Related Literature

2.1 Introduction

This chapter reviews the literature in relation to the global and regional perspective of universal primary education, the historical perspective of free primary education in Kenya, financing and privatisation of Free Primary Education, education of children with disability, and achievements and challenges of free primary education.

2.2 Global Perspective on Free Primary Education

Education forms the basis upon which economic, social and political development of any nation is founded. Investment in education can help to foster economic growth, enhance productivity, contribute to national and social development, and reduce social inequality (World Bank, 2004). UNESCO (2005) argues that the level of a country's education is one of the key indicators of its level of development. Globally, education is recognized as a basic human right. In connection with this right is the Millennium Development Goals of achieving universal primary education by 2015. The aim is to enable children everywhere, boys and girls alike, to complete a full course of primary schooling. With 2015 here with us, establishing the status of the realisation of compulsory and basic education as a basic human right is critical.

Globally, the period between 2010-2015 has witnessed an increased concern for the Education For All (EFA) movement particularly with regard to the Free Primary Education (FPE). This is contained in the Millennium Development Goals (MDGs) rebranded as ‘Sustainable’ Development Goals (SDGs) to be attained by 2030. The United Nations (UN) Millennium Development Report (2015) clearly highlights SDGs Goal 2 on the achievement of Universal Primary Education (UPE) as part of the eight goals. The report
indicates that enrolment in primary education in developing regions reached 91% in 2015 up from 83% in 2000. The achievement of this goal is however plagued by various challenges for example in 2015, 57 million children of primary school age were out of school, a situation which raises concern especially for those concerned with human rights. However, despite these international conventions, majority of children in sub-Saharan Africa and south East Asia regions are at the greatest disadvantage in accessing education at the primary school age (UNESCO, 2005).

One of the major deterrents to educational access that tends to have large negative effects on take-up of educational services is school fees (Holla & Kremer, 2008; Areba et al, 2013). Most governments believe that educating the population of a country is one way of combating poverty in their countries, yet many children do not have access to education due to lack of school fees. Conceptually, FPE puts emphasis on the waiver of all forms of levies to education by the parents in the primary school level. Hence, the government shoulders the financing of education in all public primary schools, according to the provisions of free and compulsory primary education. However as the ensuing discussion indicates, in practice this is far from the reality.

2.3 Free Primary Education in Kenya

In the run-up to the 2002 general elections, the National Rainbow Coalition Party (NARC) in Kenya made the provision of FPE part of its election manifesto. True to its promise, the NARC government introduced FPE in January 2003. The main objective of FPE was to recognize education as a basic right of all children as articulated in the Children’s Act of 2001 (R.o.K., 2003a). At the onset of FPE in 2003, the major government task was to provide public schools with basic learning/teaching materials like chalk and textbooks, and to abolish all kinds of fees levied and charges that had for decades kept a large number of children out of school. The Ministry of Education’s position is that the textbook to pupil ratio for lower primary has improved from 1:10 before 2003 to 1:3 by 2007 reaching 1:2 in 2009. For upper primary the textbook pupil ratio has improved from 1:2 in 2007 to almost 1:1 in 2009 for well-endowed schools (Orodho, Waweru, Ndici, & Nthinguri, 2013). For majority of schools however, the situation has deteriorated from
2009 due to complications related to procurement procedures and disbursement of government funds. Moreover there has been conspiracy between some vendors and school heads to swindle textbook money (Orodho et al., 2013).

In the Economic Recovery Strategy for Wealth and Employment Creation Paper (2003-2007), the government acknowledges the fact that the country has high levels of inequality in education. This is because the poor are disproportionately less educated and less skilled than the rich. The introduction of FPE was therefore a positive move towards achieving Universal Primary Education (UPE). The move witnessed a 10% increase in enrolment in primary schools nationally. A record 1.3 million children were registered in various schools across the country, raising the enrolment from 5.9 million in 2002 to 7.2 million in 2003 (R.o.K., 2003b). It was presumed that FPE would guarantee access to education, equity, quality and relevance (UNICEF, 2002). To realize this, the government was expected to provide the minimum necessary facilities and resources to enable children of school-going age to join and remain in school and complete the primary cycle of education. Given this background, scholars and policy-makers have raised pertinent issues related to the FPE policy. While there is a consensus that this is an appropriate policy in addressing the problem of promoting access to primary school enrolment in Kenya, serious concerns were raised as to the extent to which basic education provision is actually free. There is need therefore to assess the inclusiveness of all children in the free primary education provisions and the obstacles to this end. It is also critical at this point to come up with strategies of resolving these challenges.

2.4 Financing of Free Primary Education and Privatisation in Kenya

The aim of the FPE programme was to provide increased opportunities to the disadvantaged school-age children. At last, the Kenyan children had a new dawn where they were only required to walk into a school near where they lived. From then on, the child was to fully attend school until completion of the school cycle. The FPE policy abolished school fees and other levies on the basis that the fees and levies posed a serious hindrance to children’s access to education in schools (UNESCO, 2005). This bold step by the government called for additional instructional materials, for instance,
textbooks, supplemental reading materials, reference books, exercise books and other stationery. Moreover, need for additional teaching staff and the need to build capacity of education managers and inspectorate staff to continuously manage and supervise the programme for timely intervention, is an important input.

Moreover, in line with ensuring full and quality participation, the Kenya government provided funds for purchase of all teaching and learning materials, payment of teachers’ salaries, and funds for capacity building programmes for education managers to oversee programme implementation. To meet the commitment, the government earmarked Kshs. 5.4 billion from its budget which was reallocated for implementation of FPE. A further Kshs. 4 billion was raised from external sources. This clearly indicates that the financing needs for FPE are considerable and without adequate funds there is a danger that the gains under the FPE programme may witness decline as reported by UNESCO (2005).

Privatization of education can be defined as the transfer of assets, management, functions or responsibilities relating to education previously owned or carried out by the State to private actors (Hallo, 2005). It refers to policies promoting, liberalization and deregulation that lead to the establishment of a free market in education or at least to competition between public and private providers. The private actors may include companies, religious institutions or Non-Governmental Organisations (NGOs). Privatisation of education has brought about an increase in the share of private financing at the basic education level. This trend has emerged largely as a result of the incapacity of the government to satisfy the educational demand at all levels.

Belfield and Levin (2002) noted that the State traditionally holds a strong monopoly in provision of education through public funding. With an ever increasing demand for education and limited state capacity, the private sector has been called upon to increasingly participate in the provision of education under the Public Private Partnership (PPP) initiative. This participation may take many forms; for profit initiatives, diverse kinds of public private partnerships, allowing local communities to take the lead by organizing what is a privately run school provision or generating low cost alternatives to public schools often outside of any government provision. The privatization of education
however raises the critical question as to what extent the public functions of education are threatened if schooling is provided by private entities as opposed to the State.

In Kenya, at the time of independence, ignorance was identified as one of the critical challenges facing the new nation alongside poverty and disease. Since then, successive governments have made deliberate efforts to encourage participation of the private sector in providing education as a means to achieving literacy in the country. However, while private providers of education are permitted, the government must ensure that the private actors in the provision of education do not lead to creation of extreme disparities in access to quality education and segregation or division of societies in general or education in particular. It should not also replace the public system but provide a true alternative choice to quality education. The participation of private actors should be as a result of participatory policy formulation process and should continue to be subject to democratic scrutiny and to the human rights principles of transparency and inclusivity (Belfield & Levin, 2002).

According to a report by Global Initiative for Economic, Social and Cultural Rights (2015), prior to 1990, the number of private schools in Kenya was negligible compared to the number of public schools. The 1980s were, however, characterised by dwindling participation in formal schools which was aggravated by the Structural Adjustment Programmes (SAPs) that were designed to be economic recovery programmes which resulted to diminished public expenditure on education. This resulted in many disadvantaged children including those with disabilities and the urban poor not accessing formal education due to prohibitive costs associated with schooling. This was also the era characterized by widening social and economic disparities in Kenya. It is therefore on this basis that the government justified its support for the participation of the private sector in provision of education.

While the development of private schools in the 1980s-1990s was propagated by the cost sharing policy that followed the SAPs forcing many children out of the formal school system due to cost factors, a more tremendous growth of private schools has been observed since the introduction of the FPE program in 2003. Kikechi et al. (2012)
established that implementation of FPE led to high enrolment which witnessed high pupil - teacher ratio and indiscipline among pupils. It also led to inadequate learning facilities (classrooms, desks and chairs), fewer tests for pupils which lack in content and depth and increased work load among teachers. This in turn compromised KCPE performance and thus quality of free and compulsory basic education. In addition, a Global Monitoring Report by UNESCO (2005) confirms that a year after introduction of FPE, the initial increase in enrolments in public schools began to experience a decline due to drop outs and transfer to private schools. This led to massive increase in development of private schools which was attributed to the influx of pupils into public schools and resultant deterioration in quality due to overstretched facilities. Failure by the government to provide sufficient number of public primary schools led to the tremendous escalation in the number of private schools to fill the demand gap. The discussion in Chapter three will clearly show the impact of privatization on funding of the FPE programme. The following section reviews literature on provision of free primary education to children with special needs, those in ASALs and urban Slum schools and along gender lines.

2.5. Children with Special Needs and FPE

Children with disabilities have a right to education. Education plays an important role in addressing the issues that impede the education of children with special needs in Kenya. According to the National Special Needs Education (SNE) Policy Framework (2009), enrolment of learners with special needs and disabilities in educational institutions is still very low. According to statistical figures as quoted by the Gender Policy in Education (2009), there were 23,459 pupils with special needs and disabilities enrolled in primary and secondary schools in 2003 with a significant increase after the introduction of FPE. In 2006, there were 98 special primary schools, 1341 special units, 7 special secondary schools and 4 special technical training institutes with a total enrolment of 36,239. However, these learning institutions are too few and limited to cater for all types of disabilities. On this basis, this study sought to establish the extent to which this special group is enjoying their right to free basic education.

According to M.o.E (2009), several challenges relating to access and equity in the provision of education and training for learners with disabilities include lack of proper
guidelines to support and implement inclusive education; lack of data on children with special needs and disabilities in and out of school; inappropriate infrastructure, inadequate facilities and equipment; an examination system which is limiting and rigid; lack of coordination among service providers and inadequate supervision and monitoring of special needs education programmes. Therefore, on this basis, the ministry came up with a policy framework to address the challenges through the following ways. To begin with they recommended enforcing equal access and inclusion of persons with special needs and disabilities in education and training programmes at all level. Secondly, it was by intensifying monitoring, supervision and quality control in all schools to ensure children with special needs and disabilities are provided for without discrimination. Finally, it was by ensuring timely provision of learning and teaching materials and should be in accessible forms (M.o.E, 2009).

While the cost of providing education to learners with special needs and disabilities is relatively high and constitutes the single most limiting factor to increased enrolment, other impeding factors to its provision include inadequate trained personnel and financial resources. Moreover, the overhead cost of buying equipment is very high and there is lack of trained personnel, hence the need for concerted efforts between the government and development partners. In regard to the issues facing the special needs education the Ministry of Education (MOE) came up with strategies to enhance equal access to education to all learners irrespective of their physical and mental state in pursuit of the government’s commitment to achieving Education for All (EFA) by 2015. Since the UN Universal Declaration on Human Rights was released in 1948, there has been legislation on providing education for all children. The Convention on the Rights of Persons with Disabilities (CRPD) entered into force in 2008 and was ratified by the Government of Kenya in the same year. The purpose of the convention is to promote, protect, and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity (United Nations, 2007).
Article 24 states that States Parties recognize the right of persons with disabilities to education. In realizing this right, States Parties shall ensure:

- That children with disability are not excluded from Free Primary Education.
- Persons with disabilities can access an inclusive quality and free primary education on an equal basis with others in the communities in which they live.
- Reasonable accommodation of the individual requirements is provided.
- Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.

A Special Rapporteur on the Right to Education (2007) considers the right of persons with disabilities to inclusive education as an issue of concern. This right to inclusive education implies that it is possible for all children and young people, regardless of their situations or differences to learn together. The special Rapporteur recommends that States take the following steps towards ensuring an effective inclusive education system:

- Eliminate legislative or constitutional barriers to children and adults alike with disabilities, being included in the regular education system.
- Ensure that one ministry is responsible for the education of both children and adults.
- Ensure that one school system is responsible for all the children in the region.
- Transform existing special education resources - special schools or classes - into resources to assist the mainstream system.
- Provide training to educational administrators and support staff on best practice in response to individual student needs.
Ensure that conditions that constrain teachers to teach inclusively are addressed.

Invest in inclusive early childhood care and education (ECCE) programmes, which can lay the foundation for lifelong inclusion of children with disabilities in both education and society.

Provide training to parents of children with disabilities so that they know about their rights and what to do about them.

Develop accountability mechanisms in order to monitor exclusion, school registration and completion of education by persons with disabilities.

From the aforementioned recommendations, there was need to establish the status of education provision among the children with special needs, thereby warranting the undertaking of this study.

The EFA Global Monitoring Report 2007 also estimates that the majority of children with disabilities in Africa do not go to school at all, and of the 72 million primary school aged children worldwide that are out of school, one third have disabilities. Poverty is both a cause and a consequence of disability. In 1999 the World Bank estimated that people with disabilities may account for as many as one in five of the world’s poorest people (UNESCO, 2007). Furthermore, disability is associated with long-run poverty in the sense that children with disabilities are less likely to acquire the human capital that will allow them to earn higher incomes (World Bank, 2005). People in developing countries, of which Kenya is, are more likely to be affected by disability caused by communicable, maternal and perennial diseases and injuries than people in developed countries, yet these disabilities are largely preventable. Furthermore conflict often occurs in poorer countries which increases the number of people with disabilities and invariably worsens the delivery of basic services which is likely to impact those with disabilities to a greater degree than others (ibid.). Therefore, this research focused on education provision among the children with disabilities.
2.6. Gender and FPE

Governments hold the primary responsibility to ensure the full realization of the right to education for all. By law, at least primary education should be free and compulsory for all. Gender is a social and not a biological construct. Discrimination on this basis is consequently difficult to assess. Distinctions based on biological sex can be measured statistically, whereas gender differentials entail more subtle distinctions on male and female roles. Achieving gender parity (equal number of boys and girls) in school is just one step towards equality in and through education. According to a World Bank Report (2001), parity is a quantitative concept, whereas, equality is a qualitative one. The human rights protection and promotion of gender equality requires more than the numerical equilibrium; it also requires conceptual equilibrium, and a conscientious effort to redress inequality as it exists.

A review of literature on gender at the global level (Stromquist, 2012; UNDP, 2013; UNICEF 2013) indicates gender discrepancies in education continue to affect access to education, with girls being marginalized especially in ASAL areas. The UNDP report (2013) indicates that with regard to primary school participation, the overall enrolment rate of boys is higher than that of girls and this persists to secondary school and university as well.

Kenya is committed to gender equality in all spheres of development. Among the EFA goals and targets as articulated at the Jomtien conference of 1990 and reaffirmed at the world Education Forum in 1999 in Dakar (UNESCO, 2000), was to eliminate gender disparities and achieve gender equality in education. This was with a focus to ensuring girls’ full and equal access to and achievement of quality basic education. In Kenya, gender disparities in education can be seen in different enrolment rates, dropout rates, and survival rates among the sexes. Gender disparities may also be created or perpetuated by policy, ethnicity, region, religion and age. Therefore, establishing the status of implementation of free primary education to all is critical.
2.7 FPE in Arid and Semi-Arid Lands

In terms of legal frameworks, a lot of advancements have been made over time in order to universalise primary education (Ngugi, Mumukhia, Fedha & Ndiga, 2015). Kenya has not only enshrined it in its Constitution but has also made a number of policies to cater for those in ASAL areas. Consequently, Kenya upholds education as a fundamental human right and recognizes it as pivotal to the attainment of self-fulfilment and national development (-GoK 2007). Consistent efforts have been made to address issues of access, equity, quality and relevance of education. However, since independence, Arid and Semi-Arid Lands (ASALs) have continued to exhibit extensively lower access, participation, completion and achievement rates (Sifuna, 2005). Indeed, despite all the efforts invested towards including the children from ASAL areas in education, the level of their participation in education has remained minimal (Ngugi et al., 2015).

2.8 Urban Slum Schools and FPE

Basic education in Kenya is recognised as a human right in article 43(f) of the Constitution of Kenya which acknowledges that everyone has the right to education. Education for children is further entrenched in article 53 (1) which provides that every child has the right to free and compulsory education. According to a report by the United Nations Children’s Education Fund (UNICEF, 2012), an increased number of children living in urban areas are among the most disadvantaged and vulnerable in the world. As the world becomes increasingly urban with more than half of its people living in urban areas, including more than a billion children, the urban experience is one of poverty and exclusion for many.

UNICEF (2012) states that when people think of poverty stricken areas, they focus on the traditional image of a child in a rural village. However, the reality is that there are an increasing number of children living in slums and shanty towns who are disadvantaged and vulnerable in the world. These children are deprived of the most basic services and denied the right to thrive. On the other hand, while cities offer many children the advantages of urban schools, clinics and playgrounds, the same cities world over are
also the settings for some of the greatest disparities in children's health, education and opportunities. This is because, as is in Kenya for example, urban informal settlements, which are also referred to as slums herein, experience severe shortages in supply of basic services, and government schools are not sufficiently available.

2.9. Challenges of FPE

Challenges related to implementation of FPE abound. The main challenge that has persistently hindered its implementation is in connection with its concept of being “free”. Therefore, the very basis on which free primary education is built on is a hindrance. To begin with, there is need for the government to make it clear to stakeholders especially parents what ‘free’ really means. If it means cost-sharing, then they need to make the parents aware of this. Further, the funds allocated for provision of education are inadequate and in addition, most schools experience shortage of teachers to handle the big number of learners in school, hence compromising the quality of education (UNESCO, 2005). In some instances, there are delays in disbursement of funds besides embezzlement of funds by government officials before they reach the school level. Similarly, there are cases of misappropriation of funds by the institutional leadership, that is, the head teachers (UNESCO, 2005). Therefore, there is need to evaluate the obstacles that curtail the provision of FPE and analyse strategies that may be used to address these barriers.

Teaching-learning materials also present a major challenge to FPE (Ogola, 2010; Okwach & George, 1997). Under the FPE programme, every pupil is entitled to free writing materials, for example, pencils, pens and exercise books. A report by UNESCO (2005) indicated that textbooks and supplementary materials were being shared in the ratio of one textbook to five pupils. Furthermore, FPE has been faced with the problem of inadequate teachers as pointed out by Ogola (2010). UNESCO (2013) also points out that there has been an ever-increasing pupil-teacher ratio trend, hence compromising equity and quality variables of FPE. Table 2 is a summary of the national class size trends of the pupil-teacher ratio between 1998 and 2012.
Table 2: Pupil Teacher Ratio Trends in Kenya

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<tr>
<td>Ratio</td>
<td>28.5</td>
<td>34.4</td>
<td>34.4</td>
<td>39.5</td>
<td>41.5</td>
<td>43.5</td>
<td>45.0</td>
<td>56.1</td>
</tr>
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</table>

Source: UNESCO (2013)

Table 2 is a summary of the continued increase in the number of pupils to the ratio of one teacher. Therefore, from the foregoing, the provision of FPE as a policy and as a human right component needs attention.

Stakeholder participation continues to be a challenge in the realisation of Education for All yet this is a State obligation if a government hopes to achieve the EFA goal. In view of this, the government must take action towards commitment to transparency, accountability, access to justice and stakeholder participation in the provision of education (UNICEF/UNESCO, 2013: 122). Parents must be aware of their roles and responsibilities although research in Kenya suggests this may not be the case (Ogola, 2010). Abuya et al. (2015) argue that the challenges of FPE hardly focus on teachers’ roles and responsibilities especially with regard to them as the implementers of the FPE policy. Similarly, transformative NGOs need to work in collaboration with the government and other stakeholders for FPE to be achieved. This partly informed the collaboration between Laikipia University and KNCHR to carry out the present study.
CHAPTER THREE

Findings of the Study and Discussion

3.0 Introduction

This chapter presents the findings of the research that was conducted in the Coastal region of Kenya to establish the right to education in the light of Free Primary Education policy. Data were collected mainly through two categories of focus groups discussion. One comprised teachers who are the implementers of FPE and the other, parents. In addition, in-depth interviews were conducted among the head teachers. The results are presented in line with the objectives covered by the study.

Although, the study covered seven objectives at the onset, the findings formed six objectives which are as presented here. The first objective aimed at assessing the extent to which various legislative and policy frameworks have been implemented to guarantee free and compulsory basic education in Kenya. The second objective aimed at determining the extent to which the implementation strategies for free and compulsory basic education have been applied for learners with special needs. The third objective aimed at assessing the implementation strategies for free and compulsory education in Arid and Semi-Arid Lands (ASALs). The fourth objective aimed at identifying the gaps that exist in the implementation of free and compulsory basic education. The fifth objective aimed at investigating the challenges affecting the implementation of free and compulsory basic education. Lastly, the study aimed at generating solutions and interventional measures to improve the current status of free and compulsory basic education.
3.1 Legislative and Policy Framework on Implementation of FPE

The first objective sought to find out the extent to which the various legislative and policy frameworks have been implemented to guarantee free and compulsory basic education in Kenya. Kenya has ratified most international treaties that aim to protect the right to education and has translated them to form part of the country’s laws and policies on education. The focus of this objective was to find out the extent to which these laws and policies have been implemented and to identify any gaps or violations with a view to suggesting ways to remedy the situation.

In as far as its legislation is concerned; the Constitution of Kenya (2010) has articulated the need for provision of education as a human right. Contained in the Constitution is the Bill of Rights which puts emphasis on the fundamental freedoms and rights of an individual (CoK, 2010) which includes basic education as a human right. Additionally, the Basic Education Act (2013) spells out the provision of free and compulsory basic education. It further prohibits payment of fees and any form of discrimination. It also directs that the government establishes mechanisms to ensure special units in schools have appropriate personnel, infrastructure, materials and equipment. Hence implementation of affirmative action is needed. This research however, confirmed that with the paying of some levies due to inadequate funds in public primary schools there is a glaring threat to the provision of free and compulsory basic education. Without adequate personnel and instructional materials, the quality of education is compromised. In terms of gender, there is also need to shift focus from girl child to also include the boy child.

On the other hand, various policies have been formulated to enhance the achievement of free and compulsory basic education. Vision 2030 is a long term development policy for the country which identifies education as key within the social pillar to steer Kenya into a middle level income country in the next 20 years. Certain constitutional rights are emphasized in line with provision of free and compulsory basic education as spelt out in the Vision 2030 blueprint. They include development of key programmes for learners with special needs, especially those in ASAL areas, rejuvenating the on-going adult training programmes and enhancing partnership with the private sector in promotion of
education as a human right. This research however indicates that these aforementioned issues still need redress as is discussed in the rest of the findings in this chapter.

3.1.1 Implementation of FPE

FPE was introduced in Kenya in 2003. The objective was to increase access to education for all children as part of the government’s obligation to meeting the constitutional requirement of providing education to all its citizens. This was in line with meeting the international conventions which Kenya ascribes to according to the UN Charter on Human Rights which was introduced in 1948. In addition to the realisation of these conventions was the setting of EFA targets to be achieved by 1990, whose realisation was faced by many challenges. These challenges led to MDGs of 2000, and further postponement of the realisation of Universal Primary Education to 2015. Additionally, the CRC, CRPD and the African Charter confirm that Kenya is faced with challenges and disparities, hence ascertaining the need for the current study. Further, to the existence of the aforementioned goals of the Charter, Article 53.1(b) of the 2010 Kenyan constitution guarantees to every child the right to free and compulsory basic education. The Basic Education Act of 2013, correspondingly, stipulates the provisions to guarantee the implementation of the right to free and compulsory basic education. This provision is derived from the International Convention on the Rights of the Child (CRC) where Article 28 of the Convention stipulates that all children have the right to a basic education which should be free.

Respondents in this study demonstrated a clear understanding of the provisions within the Basic Education Act (2013) upon which FPE is hinged. For example, responding to the question on what the aim of the government was in implementing FPE, one parent expressed:

"The government aimed at providing education to all children and especially the needy children whose parents could not afford to pay for their education, so that they could shape their future."
This can be corroborated with what head teachers generally seemed to agree as pertaining to the aims of FPE. One head teacher pointed out:

"The aim was to remove the burden of educating a child from the parents, majority of who are poor, so that they can improve their standards of living. It meant that all children would be in school despite their circumstances unlike before education was provided for free."

This is confirmed by the Constitution of Kenya (2010) which stipulates that “every child has a right to free and compulsory basic education.” (Article 53.1.b). However, despite developing a comprehensive law and policy framework to protect and implement the right to education for all children, this study identified several challenges associated with enforcement of the laws and implementation of the policies. According to the respondents, the implementation strategies of FPE are hampered by several bottlenecks linked to internal and external dynamics that touch on the quality, efficiency and sustainability of the programme. Of particular prominence was the view expressed by a number of head teachers that the capitation grants in financing education are not in harmony with the inflationary trends. One head teacher interviewed responded thus:

"It is true that the disbursement is made every year and in fact it is continuously increased due to increased number of students; but when you look at it critically, you find that due to increase in the prices of commodities and the cost of living, that disbursement is insufficient."

The FPE implementation framework was hinged upon the government’s commitment to the provision of the cost of tuition, equipment and employment of teachers. Article 39 of the Basic Education Act of 2013 has listed the government’s obligations in the provision of free and compulsory basic education. The government is required to provide human resources including adequate teaching and non-teaching staff according to staffing norms, as well as infrastructure that includes schools, teaching and learning equipment and appropriate financial resources.
The respondents in the focus group discussions perceived the government as being committed to achievement of FPE implementation as demonstrated through continuous disbursement of funds to support FPE. One parent said that there is goodwill from the government as demonstrated by its continuous disbursement of FPE funds and that, in fact, the disbursement has continued to increase, which confirms what one of the head teachers had indicated as expressed in this section. According to Kaimenyi (2014), the teacher-pupil ratio is one measure of assessing progress towards Education for All. On average, the pupil teacher ratio at primary school nationally moved from 44:1 in 2007 to 45:1 in 2010 against the target of 42:1. Conversely, at the Coast region of Kenya, the observed pupil- teacher ratio of the area under study ranged from 45:1 in urban areas to as high as 70:1 in ASAL and hard-to-reach areas. This is against the internationally recommended class size of less than 20 pupils per teacher. Internationally, many countries have also not yet met the target ratio but are close. For instance, the United Kingdom has a ratio of 24:1, but in OECD countries their ratio is a good 16:1. This therefore points out one of the key challenges hindering progress towards implementation of FPE.

The view of the respondents in the study was that the government did not create enough awareness on the roles of communities and families towards implementation of FPE as confirmed in the literature review. The study found out that, in general, there was poor coordination and consultation among the various stakeholders. For example, parents were not sensitized on their role towards the implementation of FPE. Many parents actually did abdicate their role of providing for the basic requirements of their children, for example, school uniform, expecting that it was covered in the provisions under the government in the FPE programme as illustrated in the response below by a parent:

It was relief when we heard that education would be free. Initially we did not know that we would pay anything, but now we are well aware that we must contribute for the success of the programme. You know...some parents even sent their children to school without school uniform thinking that the government was providing everything.

On the other hand, for many households especially in ASALs, informal settlements
and hard-to-reach areas, the hidden costs of education at the primary school level are prohibitive and, to most of them, the costs are untenable. According to the Basic Education Act (2013), no public school is expected to charge or cause any parent or guardian to pay tuition fee for or on behalf of any child in school. This is in line with the provision within the CRC that basic education should be free. The view of most stakeholders interviewed was that the government is showing strong commitment to funding FPE as attested to by the following response of a head teacher in one of the schools:

…”

It is a fact; the government is remitting the disbursement every year and the amount increases progressively, because the demands are more than the money that is disbursed. But the delays in disbursement of funds by the government result to unnecessary extra costs. How do you expect a school to run without money? Even if you take an overdraft from the bank, you will not be given money to refund that. Yet, on the other hand, the parents are aware that the government is paying for the education of their children.

However, there remain pockets where parents are required to top up on the disbursed funds to cater for cases where the funds are inadequate. The most frequently cited areas included payment of teachers employed by the PTA, activity fee and examinations fee. According to the stakeholders in the focus groups, the escalating costs are a drawback to earlier achievements in access to quality education. The costs are a heavy burden for the parents as the response below illustrates:

…”

What I see different with the government policy is this activity fee. Initially it was free but then we have been told we must pay. That is where we have a big problem because for example, I have six children (in school) and I have to pay three hundred and seventy shillings for each one of them. I paid one thousand shillings just yesterday, and the payment receipt is this one here, and I still have not cleared.
In corroboration with what the head teachers had to say, the money collected does not help facilitate only the activities within the school, but instead a large proportion goes to the County Government. A head teacher opined:

Each child is required to pay Ksh. 370/-, but mark you the county government takes Ksh. 330/- out of that. This leaves only Ksh.40/- for the all the activities being conducted within the school, the two terms when we have activities in the school calendar. Of course, it is inadequate.

This brings to the fore the question of to what extent free and compulsory basic education is actually free. It is for this reason that there is need for the government through relevant agencies to monitor the implementation of the FPE strategies and clearly address this misunderstanding and also identify where gaps and violations exist in order to make relevant advocacy recommendations.

3.1.2 ASALs and hard-to-reach areas

The Constitution of Kenya (2010) guarantees equality and freedom from discrimination. In addition, according to Article 56 of the constitution, the state is required to put in place affirmative action programmes to ensure that the minority and marginalised groups are provided with special opportunities for education. The Basic Education Act of 2013 guarantees access to education without discrimination. The Kenya Vision 2030 has outlined strategies aimed at moving the country towards substantive equality measures to support regions and groups which have been historically disadvantaged on account of region or status. The study found that although many respondents viewed the government as committed to providing an education system that guarantees all children quality and relevant education, implementation is not uniform and is biased against the marginalized and hard-to-reach areas. According to the respondents, the government failed to develop support programmes to guarantee success of the FPE in these areas. A parent responded thus: “Parents here struggle until they give up because the situation in this place is very bad and there is no assistance at all from the government”. This was pointed out by a parent from ASAL areas, where the conditions of living are hard. To
corroborate this, a head teacher points out: ‘water and food for some of these children who go for even two days without food. Learning is a problem for them. Whenever food is provided, a lot of children attend school’. Hence, providing free education without ensuring that other basic needs are met is a challenge.

Article 4 of the ICRC provides that governments that have ratified the convention have a responsibility to make sure that children’s rights are fulfilled. It articulates that the government must help families create an environment where children can grow and reach their full potential. Therefore, signatory states are expected to develop and implement policies that assist families to meet their obligations as nurturers of children. Kenya, being a signatory of the convention has adopted the provision in its constitution. Article 55 of the 2010 constitution expresses that the State shall put in place affirmative action programmes to ensure that children and youth access relevant education and training. The Article further articulates that minorities and the marginalised groups are provided special opportunities in education. Within its legislation, Kenya in the Basic Education Act of 2013 article 35 has committed to providing pupils with appropriate incentives to learn and complete basic education. Article 39 further compels the government to ensure that children belonging to marginalised, vulnerable and disadvantaged groups are not discriminated against or prevented from pursuing and completing basic education. Against this backdrop, the Kenya government should have developed support programmes in ASAL and hard-to-reach areas to facilitate implementation strategies for FPE. In these areas, the study found that families are so poverty stricken that children even fail to attend school for lack of basic needs as illustrated by the following response from a parent in one of the schools in ASAL:

There are many challenges. The government has not given us enough consideration. Children go hungry even for some days. Without the school feeding programme, some children will claim to go for lunch but do not come back for the afternoon lessons.
A head teacher also pointed out:

Our main problem is distance and lack of water. If these children were provided with these, then they are able to come to school and stay till evening. After all, some may be depending on the only food they are given in school. But here we are lucky to have a food program provided by the government. Some schools in some regions not far from here do not. And this is why our school has really grown from the inception of the food program.

In the second Medium Term Plan (MTP) of the Vision 2030, Kenya has identified strategies to achieve equity in access to education through affirmative action in regions affected by historical and cultural imbalances. These include provision of school-based health and hygiene, provision of midday meals to disadvantaged pupils and starting school feeding programmes targeting children from food insecure communities in the ASALs. The problem is that, in the majority of schools, the feeding programme that was launched with the initiation of FPE has since ceased leaving these vulnerable children in very difficult circumstances.

3.1.3 Quality education

The Basic Education Act of 2013 has outlined a number of government obligations in ensuring provision of quality education to its children and youth. The government is obliged to provide human resources including adequate teaching and non-teaching staff according to prescribed norms, infrastructure including schools, learning and teaching materials and appropriate financial resources. It must also ensure that the quality of basic education conforms to the set standards and norms. The respondents in the study opined that the government made policies but with no clear implementation framework. A case in point is that the government did not put into consideration the effect that the upsurge on school enrolment due to FPE would have on factors related to class sizes, teacher establishments, infrastructure and others. A finding in almost all visited schools was that they had to employ teachers to be paid by the Parents -Teachers’ Association (PTA) to bridge the gap on teacher shortages. This is illustrated by one parent who
responded thus: ‘We also have to contribute some amount to pay teachers engaged by
the PTA so that the school can progress’. The issue of large classes arose frequently in the
schools visited. In some schools, there were classes with up to 70 pupils in one stream.
For such, a teacher would not be effective in meeting the needs of all the pupils and
paying attention to their individual differences. This may also discourage some pupils to
a point of dropping out of school. This contradicts the Basic Education Act 2013, Article
35 which provides that pupils shall be given appropriate incentives to learn. According
to Gakuu (2012) and Ogola (2010), teacher shortages and large classes are among the
factors that highly impinge on the quality of education in schools. This means that the
very right to education may be unattainable under such circumstances.

The Basic Education Act (2013) has provided for the establishment of an Education
Standards and Quality Assurance Council. The council is charged with the responsibility
of ensuring standards and maintaining quality in institutions of basic education, and of
supervising and overseeing curriculum implementation and delivery in basic education.
Parents in the focus groups argued that there is laxity among teachers in public schools.
They observed that the organs charged with supervising curriculum implementation are
generally ineffective. Parents were quick to observe that even teachers and education
officials take their children to private schools, an indicator that there are issues of
quality education in public primary schools. A parent lamented that: “Even teachers
and education officials know there are challenges here (public schools). They take their
children to private schools. The offices of the zonal Quality Assurance Standards (QAS)
officials are right in this school, yet there is laxity among teachers in the school.” Unless
the quality of education in public schools is improved then the children of the poor, who
cannot afford to take their children to private schools, will miss out on quality education.

In the FPE policy formulation, the government pledged provision of appropriate human
resource funds, equipment, infrastructure and related resources that meet the needs
of every child in basic education. The stakeholders in the focus groups were generally
in agreement that positive gains have been made especially with regard to provision of
textbooks and other teaching resources. However, there was general consensus among
head teachers that the procurement procedures are cumbersome and time consuming.
On the other hand parents and teachers expressed that there was inefficiency and lack of transparency with regard to procurement of instructional materials and use of collected funds. One parent had this to say:

Parents are paying so much money. The government talks of reducing fees, but now starting this year, activity fee is about five hundred shillings per pupil. We don’t understand why it is so high and there are no serious activities going on. All that money … we don’t understand hiyo pesa inaenda wapi? (Where does that money go?). We need to be informed on how the money is spent. Accountability to us parents is important.

The issue of quality education vis a vis privatization of basic education is an area that stakeholders in the focus groups addressed with strong emotions. Article 43 and Part VIII of the 2013 Basic Education Act regulates private education. According to the act, the cabinet secretary is charged with the responsibility of overall governance and management of basic education. However, as observed by many respondents, the provisions do not indicate concrete ways of overseeing and controlling education in private institutions. They expressed that as long as the Kenya Certificate of Primary Education (KCPE) examination remained as the end of the primary school evaluation, then education would continue to be biased against public schools when compared to private schools. One parent said:

There is a lot of spoon feeding-in private schools. They do all the tricks to pass examinations. Then their pupils join the best secondary schools. Therefore, parents who can afford will prefer educating their children in private schools ...the problem is then with the children from poor families who cannot afford.

Participants in the focus groups critiqued the government policy on Quota system during Form One selection. They pointed out that because majority of slots in well-established public secondary schools are reserved for pupils from public primary schools, many parents and head teachers collude to register pupils enrolled in private schools as candidates in public schools. This scenario then defeats the purpose of protecting pupils
from public schools against stiff and unfair competition from private schools. However, the stakeholders were in agreement that private schools should be allowed to continue operating and what the government should do is create a level playing ground and come up with clear policy on private and public schooling. The response below illustrates the opinion of one of the parents:

Private schools should be allowed to continue. Let public schools learn from private schools and shape up. It is unfortunate that TSC (Teachers Service Commission) has not been able to rein in on teachers in public schools. KNUT (Kenya National Union of Teachers/Teachers Trade Unions) interferes with almost every good proposal made by TSC on improving teaching services in public schools. Laxity among teachers in the public schools contributes to poor performance.

It was interesting to note that, as observed by parents in many focus groups, teachers in public schools are better trained and earn better salaries compared to their counterparts in private schools. They also claimed that private schools were run more efficiently when compared to public schools. A parent in one of the focus groups had this to say:

Private schools are well managed. That is why they perform well. The same would apply to public schools if they were to be well managed. Some time ago private schools were for the non-performing and undisciplined pupils. Today, the situation is the other way round….and… it is interesting to note that teachers in private schools are not as well trained as those in public schools and they [public school teachers] are even better paid. They are still more experienced yet private schools outshine them… It is all because of good management (in private schools).
This can be corroborated with what one of the head teachers indicated:

Private schools do perform better than public schools, but the reasons vary from the kind of students that join such schools and whether the schools are adequately equipped with enough teaching/learning resources or not. Teachers are generally motivated in terms of pay and generally structures are clear on who should be doing what. But look at a person like me for instance, I’m expected to teach, I’m also supposed to attend to serve the duties of a bursar and also other duties.

Therefore, the two types of institutions perform differently due to the way they are generally run and managed.

3.1.4 Indigenous education

The government policy towards promotion of indigenous knowledge is hinged upon the ICRC provision that children have the right to learn about and practice their own culture, language and religion. The convention expresses that mass media should encourage languages that indigenous children can understand. This provision is captured well in the Basic Education Act (2013), which stipulates that every child in pre-primary and lower primary school level should be instructed in a language that she/he can understand. The implication of this policy is that these levels of primary education should use the first language of the children for teaching. This suggestion received vehement opposition from most of the interviewed stakeholders as illustrated by the response of a parent in one school:

We don’t like our children being taught in mother tongue. They should learn in English because the examinations are set in English. Even though we (older generation) were taught in mother tongue we prefer our children being taught in English.
The head teachers on the other hand seem to agree with them as one of them pointed out:

English is the official language and medium of instruction that the other entire subjects use. But you find that when they do not understand the teacher uses for example Kiswahili to explain a concept. By doing this, they are able to get the meaning easily. Mmm.. but... Since even in the exam they will be getting instructions in English, then let them use English as early as possible. Besides they can always use their mother tongue at other times.

Other stakeholders argued that there was no room for teaching using the first language as the other schools that they are expected to compete with, especially those in relatively rich areas, use English as the medium of communication. However, a parent in another school expressed a contrary view: ‘In my opinion, if young children are taught in Kigiriama, they will develop the skill of self-expression. It is important for cultural preservation’.

This latter view is supported by UNESCO’s policy on multilingualism and underscores the critical role of mother tongues in a child’s identity and subsequently as a language of instruction. With the on-going curriculum reforms, the issue of exam-oriented curriculum needs to be addressed by the Ministry of Education together with other stakeholders so that use of mother tongue in especially the early years of schooling can be upheld.

3.1.5 Gender equality

The 2008 Gender in Education policy provides guidance for implementing gender equality in education. The National Gender and Equality Commission of 2011 emphasizes on non-discrimination based on gender. Article 27 of the Constitution of Kenya (2010) guarantees equality and freedom from discrimination on any grounds including sex. In the Article, the State commits to take legislative and other measures including affirmative action programmes and policies designed to redress any disadvantaged group or individual. For a long time girl-child education has faced numerous challenges including sexual abuse, early marriages, early pregnancies and gender stereotyping.
Article 53.1 (d) of the 2010 constitution provides that every child has the right to be protected from abuse, neglect, harmful cultural practices, all forms of violence and other ills. The Basic Education Act (2013) also espouses the right to education for every child without discrimination on gender lines. The study, established that to a large extent these provisions have been achieved with regard to the girl-child. Head teachers agreed that teenage mothers were being allowed back in school and that there was less stigmatization of young mothers when they returned back to school. In a number of schools, the government in conjunction with NGOs was supplying the girls with sanitary towels. The government has zero-rated taxes on sanitary towels to affirm this.

Conversely, the study established that presently, it is the boy-child who needs more attention. The boy-child’s education is threatened by little attention from stakeholders leading to low self-esteem, child labour, recruitment into anti-social groups and exposure to harmful cultural practices. This was attested by the response of a teacher in one of the schools:

Both boys and girls have benefitted from FPE. However, more boys than girls now drop out for reasons that they have to go and work to cater for needs of their families. It is also important to note that the boy child has been forgotten as most NGOs concentrate on the girl-child education. It is easy to get sponsorship for girls and boys get de-motivated.

This was also confirmed by majority of the head teachers who felt that the boy child has been neglected. One of them made the following observation;

We need more action to bring the boys to school. The government has to protect them because too much attention has been given to the girls, yet the boys too are still our children. Even when it comes to seeking for employment at construction sites and selling of local liquor, the parents use them mostly. And you see here at the coast people do not see the value of education. You know others have been in school and are yet to get employment. Something needs to be done so that even others are encouraged to come to school.
In view of this, it would be prudent for the government and other education stakeholders to come up with affirmative action for the boy-child education especially in ASAL, hard-to-reach and informal settlement areas. In addition, this points out to the need for curriculum review which is already on-going to make the education system relevant to the needs of the society.

3.1.6 Special needs education

The CoK (2010) Article 54.1 (b) provides that a person with any disability is entitled to access educational institutions and facilities for persons with disabilities that are integrated into society to the extent compatible with the interests of the person. The Basic Education Act of 2013 obliges the government to provide special education and training for talented and gifted pupils and pupils with disabilities. The 2001 Children’s Education Act also highlights the right to education and training free of charge for children with disabilities. In 2009, the National Special Needs Education Policy Framework provided the guidance in implementing education for learners with special needs. The government undertook to train special needs teachers with a commitment to have at least one special teacher in every primary school by 2015; establish community based rehabilitation programmes for children with disabilities and institute regular awareness programmes for children with disabilities to reduce stigmatization (UNESCO, 2012).

Results of this study established that positive developments have been realised in the education of children with disabilities. Some of the schools had a special unit for the disabled with a special teacher but unfortunately, there were no suitable teaching and learning materials. However, it was noted that the learners were not categorised into the various types of disabilities. In addition, respondents indicated that there was a shift in the community’s perceptions that disabilities were a curse. The enrolment of the special needs learners had increased. It was noted that other than the teacher(s) and the space, there was little effort in terms of creating a facilitative and enabling learning environment.
A head teacher indicated:

The government has not been able to take care of the children with special needs. I once had a teacher for this unit who fell sick three years ago but later retired, yet, I haven’t gotten a replacement till now. Also, getting funding for buying instructional equipment by the government has not been effected.

To corroborate this, one teacher also indicated: ‘other than a normal classroom and the teaching toys, no other provision has been done by the government’.

On integrating back the learners to the regular programmes, it was noted that only few cases were integrated back. As a result, it was felt that legislation should be put in place to guide the process of identifying cases for re-integration, isolation and referral, especially for severe disabilities. A parent described the challenges of education for disabled children as:

The parent has to carry or accompany the child to school. When in school, the special teacher takes over as other normal learners’ help. The rainy season poses a challenge as the handicapped and the helpers keep falling over.

It was noted that on the ground, there is little if any effort to identify and address cases of talented and gifted learners.

3.2 What does Free and Compulsory Basic Education mean for Children with Disabilities?

3.2.1 Introduction

This section identifies the key gains and difficulties or challenges faced by children with disabilities in the Coast region with regard to the provision of Free and Compulsory basic Education. The research findings from the sampled schools indicate that FPE has impacted positively on children with disabilities in terms of accessibility. However, several
areas require addressing by the relevant authorities. This section addresses areas of access, equity, integration and provision of resources.

### 3.2.2 Access and equity

The research findings indicated that most of the sampled schools had a special unit to cater for children with special needs. The head teachers revealed that the government had provided special educators in some of the schools to handle the needs of these children. The participants revealed that education for children with disabilities is vital because it is enshrined in the Constitution of Kenya as a basic right. “This is also a human being and needs to get education”, recommended one parent. The establishment of the special units is in line with the Basic Education Act (2013) which provides for establishment of special needs institutions. It was generally noted by a few head teachers that few children with certain level of disabilities were able to access school through FPE, while they recommended others to be taken to specialised educational units. However, teachers confirmed that not all children with disabilities are taken to school. One teacher observed:

Even with FPE, not all children with disabilities are brought to school. Some of the parents are unwilling, while others have fear that the children will be stigmatised. But you see it is also difficult to bring them here because of long distance. With absence of boarding schools, it is difficult to help such a child.

Therefore with varied dispositions, it is unlikely that free and compulsory basic education can be realised unless infrastructure to cater for all children of school going age are in place. This contradicts the rights of a child within the framework of human rights, as pointed out by many that all children irrespective of their varied dispositions are entitled to equal access to quality education (UNESCO, 2001).

The findings indicate that the government needs to create awareness and sensitisation of this special group of children and also the right placements in the appropriate specialised institutions. Therefore, this will promote the protection against children’s
discrimination as espoused in the Constitution of Kenya (2010). It clearly prohibits any kind of discrimination that is a consequence of attitudes and responses to diversity in terms of ability, social class, gender, ethnicity, geographical location and race, among other factors.

The findings also indicate that the government provides funds to each school to cater for children with disabilities. This shows that the government has made effort to provide education to all as stipulated in the constitution. One of the head teachers revealed:

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The government disburses some money to the schools to facilitate making learning friendlier for the children with disabilities. We sometimes use that money to acquire special equipment for the institutions. The challenge we have is that the money given is not adequate and it is not disbursed in a consistent manner.

Consequently, maintaining children with disability in school has also faced many obstacles. Some of the obstacles were compounded by inadequate funds which were not disbursed in a consistent manner thus causing challenges in maintaining special units that are within schools. Special educators were also inadequate and some schools have none. The parents revealed that the learning resources were very limited which compounded the challenges faced by children with disabilities. A parent summed it as follows:

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The special unit does not have the required facilities and this makes it hard for parents to bring their children to school because they will not get the necessary treatment they require so they prefer to stay at home with them.

The teachers, on the other hand, revealed that the community had an ambivalent attitude with regard to the special unit establishments in schools. They indicated that some community members were of the view that the unit was a waste of resources while others were impressed by the progress the children were making. One respondent noted that when members of the community find the children out there communicating they
wonder, ‘These children could hardly speak but you can tell someone come here and they come, go there and they do so....acquiring basic communication for special children is a great achievement!’ Hence, they noted that FPE has brought positive change in the community since disability was previously seen as a curse where the children were given away or locked up in their houses.

In terms of external support from the NGOs, the teachers noted that several NGOS had come to their aid. They singled out World Vision and AMREF who provided a class in the form of a container and shoes to the disabled children in a number of schools. They said the shoes were necessary because the soil in the area was infested with jiggers. Moreover, some churches in the community were also involved in the provision of spiritual support which is a value espoused within the national goals of education.

In conclusion, despite the shortcomings of FPE, the provision of education to children with disabilities has had a positive impact on the communities in the coastal region. Majority of parents in the selected schools have enrolled their children in the various schools. This was made possible by the government by providing special units and special educators. Therefore, with increased funding for the special units, realisation of free and compulsory basic education can be enhanced. Moreover, the funding must be informed by the unit costs for each kind of disability, while strengthening inclusion in mainstream schools.

3.2.3 Inclusion in mainstream school

Children with special needs are increasingly getting access to basic education together with the other children. Teachers noted that in reality what is happening in most schools is integrated education where the learners with disability are included in the same setting with ‘normal’ children. The primary focus of integrated education is to educate students with impairments in proximity to their general education peers with opportunities to interact and share experiences. This means that special needs learners are able to interact with their counterparts without disabilities when learning takes place together in the mainstream school classroom, using materials appropriate to their various
educational needs and participating in similar lessons and recreation. Most teachers
revealed that the interaction between a child with disability and that of a ‘normal’ one is
very important because it makes the disabled child to learn from his/her counterparts. A
teacher captured this aspect as follows:

Some of them when they came here, they could not even communicate with
the rest, but due to interaction with those that are ‘normal’, they can at least say
what they want and you can understand their need.

Parents echoed the statements by the teachers indicating that the schools were able to
provide education for the children with disabilities through special units. Parents revealed
that the learners play together which creates a healthy environment for learners with
special needs because they feel appreciated, which increases their self-esteem. This
is the thrust of inclusive education which is viewed as a reform that supports diversity
stipulates that every person with disability is entitled to access educational institutions
and facilities that are integrated into society to the extent compatible with the interests
of the disabled person. The children with disability learn to be independent meaning
they can take care of themselves with little assistance. The children’s talents are also
nurtured because it is now clear that disability is not inability. One of the schools had
even employed a recently graduated student with disability to work as a security person
at their gate.

For learners with severe disability, the teachers and parents noted that placement in
special schools would be ideal so that their needs can be addressed more effectively.
The head teachers were in agreement with the teachers on the issue of placement of
children with disability in special schools. They reiterated that the government had done
well by providing a few learning items but more was needed especially in posting special
educators to those schools. It was however noted that some schools did not have a
special needs unit or a special needs educator, yet they had special needs children in
the school. The head teachers explained that they could not turn away any child and
had to accommodate the special needs children with or without a special unit. In some
of the sampled schools, children with special needs were accommodated for one year and then referred for placement in special schools. The learners were mixed with other ‘normal’ children, making it hard for both the teachers and learners. This was captured by a teacher as follows:

Here, we do not have a facility for children with disability. But we have one child who has had epilepsy for quite some time now, but we still have him. Before he was better but now he seems to be getting worse. We, however, accommodate him the way he is. We allow him do what he wishes at times but in an encouraging manner so that he feels appreciated.

From the point of view of the parents it was noted that most of those who had children with special needs faced a challenge of taking them to and from school on a daily basis. They were of the opinion therefore that the government funding should cater for transport costs of these learners to ease the burden on them.

Ensuring that children with disabilities are properly assessed early is fundamental in ensuring access to quality education. Each child has different needs and therefore being assessed by a multi-disciplinary team will lead to a better understanding of what adjustments need to be made to fully support a child with disability through an education cycle. The education assessment centres are provided by the government to support the educational assessment of children with disabilities in Kenya. The officers are responsible for carrying out the individual assessments to identify levels of impairment and make the required recommendations to support the education of children with disabilities. The head teachers revealed that the centres receive limited funding from the government which hampers effective assessment. Lack of adequate assessors to assess the degree of impairment was seen as a challenge. The research findings revealed that some counties had only one while others did not have. It was recommended that the Government invest more in the education assessment and resource centres so that they are equipped with both equipment and staff. Regardless of the impairment, it is vital that children receive an assessment so that the child’s educational needs are appropriately addressed. It was reported that some learners with disability were able to be integrated
back to the inclusive education after a stay in the special needs class.

The Kenya government needs to increase funding to schools with special units establishments.

3.3 FPE for Children in Arid and Semi-Arid Lands (ASALS)

3.3.1 Introduction

This section gives an overview of the situation of FPE in ASAL areas in the coast region and what it entails for children in those areas. The research findings from the sampled schools indicate that FPE has impacted positively on children in ASAL areas in terms of accessibility. However, there are several grey areas that require to be addressed by the relevant authorities. This section addresses areas of access, equity, school drop outs, cultural influences, environmental factors and funding. It is evident that there is an urgent need for a paradigm shift in approach to educational issues in ASAL areas.

3.3.2 Access and equity

Expansion of educational opportunities with the aim of improving access for all including ASALs is anchored in international frameworks including the Universal Declaration of Human Rights, the Convention on the Rights of the Child, the World Conference on Education for All in 1990 (EFA), the Dakar Conference on Education for All (2000) which set a goal for universal primary education by 2015 and the Millennium Development Goals (MDGs) which set a target for gender parity by 2015. The Kenya Government being a signatory to the conventions and agreements on human rights is expected to pursue policies aimed at providing equal educational opportunities to all its citizens.

The participants revealed that there were positive gains relating to FPE. The numbers of children who drop out of school have significantly reduced and very few children are spotted loitering in the villages. According to one parent ‘there is a positive attitude towards education’. This change of attitude was attributed to the removal of various
levies. The Basic Education Act (2013) guarantees that no public school will charge or cause any parent or guardian to pay tuition fees for or on behalf of any child in school. This positive development has translated into increased enrolment in all levels of basic education (UNESCO 2011). Teachers observed that there was an increased enrolment in the schools following the inception of FPE. However, despite the removal of payment of levies and charges in basic education, there are still serious obstacles that hinder children of school-going age from accessing and completing basic education especially in rural areas, ASAL areas and urban informal settlements (Wango, 2011).

The data collected revealed that children in ASALS face a myriad challenges which include inadequate basic necessities like food, water, toilets and the long distances to be covered to get to the learning institutions. Teachers raised concern over the long distances that some of the children have to cover. They revealed that some of them are forced to stay in school during lunch break or not return to school after lunch break. A head teacher pointed out:

*For sure some of our students come from very far. Since we do not have a lunch program, when they go for lunch, some don’t return until the following day. Others prefer to stay without lunch when others go. And if they come back, they will find the afternoon classes already in progress. Providing food for them would be the only thing that would save the situation... here we have real problems, also when it rains; flooding disrupts learning to a point of closing school for some time.*

The participants were concerned that when rains come they spell doom too for the children as they cannot access the schools due to flooding. Sometimes the schools remain closed as the toilets give way as a result of the rains. The respondents revealed that other than the risks the children faced from flooding, children also risked infections from sharing the available water sources with animals. The ravages of drought and other natural calamities like floods have been making it difficult if not impossible for children from poverty stricken households in ASAL areas to enrol, stay in and complete school thereby slowing the achievement of education for all as a basic human right.
3.3.3 Cultural influences

In general, participants felt that culture posed a challenge to the children in ASAL areas. The teachers noted that there were cultural festivals like burial ceremonies that children attended which hindered their education. The teachers noted that nomadic communities regard education as antagonistic to their cultural, social and economic ways of life. For example in one school we observed a herd of cows passing by the class corridor as the teacher was busy teaching hence distracting the learning process. This demonstrates that the community does not give much regard to education of the children.

Though early marriage cases for girls had reduced, there were reports indicating that the practice is still rife. Boys on the other hand are left behind at home to carry out certain family roles such as grazing animals. A head teacher pointed out:

The community around this place still hold to this culture of marrying girls off when they are very young. They organise and make arrangements to pick the child from school and send them off to their new homes. ... for the boys...,when it is time to move with their livestock, they call them from class and go with them to graze the animals. This may take them several months before they come back to school. Some of them do not come after that.

Fortunately, the government authorities are keen to follow up on such cases with the help of the local authorities. There is also the issue of early teenage pregnancies. A few girls get pregnant when in school. Initially, such girls used to be stigmatized by the society and terminated their education. However, now parents are aware that such girls can go back to school and resume their education after giving birth. Cultural practices such as Female Genital Mutilation (FGM) also continue to deny many school going girls from attending school as they get prepared for marriage after the ritual. Yet, it is ‘after such a cultural practice that the girl is married off because she ceases to be a girl, and becomes a complete woman’ as pointed out by one of the teachers.
3.3.4 Financing of education

Kenya upholds education as a fundamental human right and recognizes it as playing an integral role towards the development of self and that of the nation (GoK, 2007). It is the role of the government to finance primary education. According to information gathered from parents in the selected schools, the county government had helped in supplying ASAL schools with water. Lunch programmes were also instituted in some schools. The parents were however expected to chip in by paying the cook, providing cooking fuel and cooking equipment. With schools in ASAL areas falling under those termed as poorer schools, there was a call from the study participants on the government to give them preferential treatment in the disbursement of funds and allocation of other resources. A head teacher indicated this:

This money given by the government cannot sustain us as a school. We have a computer project given by an NGO, we needed a store to keep these, and a watchman is needed for that. You cannot still go back to the sponsor of the project. We called the parents and agreed on what each one of them should pay so that their children can learn. But how do you expect the same parents to be able to pay for the food program and activity fees? Even telling them to pay something small so that their children in standard 8 can sleep in school is hard.

Therefore, these findings indicate that the NGOs had come in to their aid. They provided water by drilling boreholes although the schools were billed for the services. They however stated that the support from political leaders was limited. A head teacher reported that the County Government claimed that its jurisdiction for support was limited to Early Childhood Development Education and therefore should not be asked to provide for other amenities such as water.

In summary, the parents and teachers were in agreement that the government had stepped up efforts to provide education to schools in ASALs which had translated to an increase in enrolment. However the attempts made to provide education to the marginalized areas faced a lot of challenges given the fact that the ASAL areas are
inhabited by nomadic communities who are yet to fully embrace education due to the cultural practices that accompany the nomadic practice. The rate of retention, survival, completion and transition in ASALs is remarkably low. The areas are ravaged by poverty occasioned by the harsh climatic conditions. Therefore, based on shared views from the participants of the study, this study recommends that the government and well-wishers introduce school feeding programs and enhance boarding facilities in order to attract and retain learners in school.

To address this challenge, this study also recommends that the government reduces or eliminates the cost of education. Introduction of feeding programmes aimed to counter effects brought about by abject poverty, drought or persistent food shortages as an intervention that can boost enrolment and retention of children in schools. Provision of boarding facilities therefore would enable parents to keep their children in school even when the parents moved with their animals in search of pasture. Hence, teachers would also have sufficient time to complete the syllabus making the schools competitive and learner friendly.

3.4 Achievements of FPE since Enactment of Basic Education Act (2013) and the Constitution of Kenya

The fourth objective sought to find out the extent of the achievements in the provision of free and compulsory basic education for children since the enactment of the CoK in 2010 and the Basic Education Act of 2013. The study identified key achievements as perceived by the stakeholders who were interviewed. With the implementation of FPE in 2003, the government in conjunction with parents, local communities, private sector, community leaders and other stakeholders expanded the capacity of the primary schools to hold the increased enrolment that followed. The findings of this study were that this expansion has had a positive impact on access of primary education to pupils. This also has had an impact on improved literacy levels.
One of the parents had this to say:

There has been a positive change. Many children are now in school; some from very poor backgrounds, who could not have otherwise been in school. This has helped reduce cases of immorality among children. There are very few cases of pupils dropping out of school because there is no much fees being charged. Majority if not all students in the (village) polytechnics have completed the primary school level, all thanks to FPE. It has also reduced ignorance to a large extent.

A head teacher observed that;

Education, especially in the rural areas at the primary school level has been made more available because the common mwananchi (citizen) who couldn't afford the education now can access the schools. The number of street children has reduced. Simply, education is now available to all children.

This was corroborated still by another parent who expressed thus:

Yes, FPE has helped because most of the young children are now attending school. The ones that did not have access due to the money paid as fees are now going to school. We don’t have young children hanging around (outside school) and most of them now can read and write, so literacy has improved.

Another achievement is in terms of improved equity in education with respect to gender. This was frequently cited as a positive gain with the implementation of FPE. Gender parity was found to have almost been achieved in primary education. A parent had this to say; ‘we can say for now that all children are equally considered in education be it boy or girl-child. We no longer discriminate’.
Similar sentiments were echoed by teachers with one teacher expressing thus:

There is healthy competition between boys and girls. In fact, the enrolment for girls is nowadays higher than that of boys. The high enrolment for girls can be attributed to eradication of FGM cases.

The government’s policy on special needs education has enhanced access and equity in education. The study established that there was expanded financial support base for the disadvantaged as can be attested through increased special units. To this end it was noted that the government had improved school infrastructure and made teachers available to these schools. Overall, these initiatives have had a positive impact on development of education for learners with special needs. A teacher had this to say:

Here, we have integrated children with special needs. They fit well with others. They don’t see their disability because we allow them to mix freely and even play with the other children. Those with severe handicaps we refer them to special schools.

This can be corroborated with what one of the head teachers said:

The children with disability are minimally taken care of. We can’t do much without facilities and teachers to take care of such special children. I wish the government would even provide a teacher for them and proper equipment because some of them are not really serious cases that cannot change to grow to be normal children if given appropriate training. You know they will also play with the other normal children and this will make them grow normally.

It should however be noted that even though the children with special needs have been facilitated through provision of learning infrastructure, there are generally higher levels of underfunding in terms of learning materials which were found to be inadequate and the units lacked properly trained teacher educators in Special Needs Schools (SNE).
It was established that with the introduction of FPE many schools have been built and equipped with furniture. Provision of instructional materials was cited as a major achievement of FPE though there is need for improvement of this infrastructure on the part of the government. The continuous replenishment of textbooks has improved the textbook to pupil ratio from the initial 1:9 in 2003 (UNESCO, 2005), to 1:3 in 2010 (Gakuu, 2012) and to almost 1:1 currently. The government disburses the textbook capitation vote head on a yearly basis. However, in the research area, it was determined that the ratio was about 1:6 in ASAL and hard-to-reach areas while it was about 1:3 in urban areas. Bearing in mind that the average lifespan of a book according to UNESCO (2012) is four years, the build-up of the textbook supply was found to be adequate as expressed by the various stakeholders in the sampled schools. This, however, begs the question of why the ratio has not reached 1:1. This study therefore suggests that institutions like KNCHR be mandated to sensitise the stakeholders on their respective roles so that pupils get adequate textbooks which will enhance quality education.

Although there were a number of achievements with regard to the quality of education, the respondents had mixed reactions. Some felt that the quality was compromised since a student does not get individualised attention while others felt that improvement in terms of infrastructure led to improved quality. However, there was general agreement that there was improvement in supplying schools with learning materials including exercise books.

Sifuna and Sawamura (2010) identified nine indicators of quality education as library, instructional time, homework, textbooks, teacher subject knowledge, teacher experience, laboratories/workshops, teacher salaries, and class sizes. In general, there was mixed reaction to the question of the quality of education, according to the findings of this study. This concurs with Ogola (2010) who pointed out that there are mixed opinions on quality of FPE. While the majority of the respondents felt that these challenges hampered the implementation of FPE, (*elimu ni bure, bure kabisa*- Free education, totally useless) some felt that the quality of education had improved as observed by one of the participants thus:
There is marked improvement in the quality of education. Learners are being provided with textbooks where the ratio now is one book for two pupils. This makes learning easier. Where a child has a course book each, it is easier to assign homework. Learners are able to do assignments with ease.

Transition from primary to secondary school level was also identified as an achievement of FPE. A teacher had this to say:

The transition rate for both boys and girls to secondary schools is high. It is almost 100% here. What is now at stake is the kind of secondary schools they go to because some are forced to go to very poor secondary schools due to poverty.

The study therefore concludes that there have been numerous achievements in education with the implementation of FPE. However, this study confirmed that the issue of quality has been compromised to some extent due to shortage of teachers and inadequate facilities as opined by Abuya et al., (2015).

3.5 Gaps and Challenges in Implementation of FPE

3.5.1 Introduction

This section identifies the key gaps and challenges faced in the implementation of the FPE programme in the Coast region. From the selected schools in each of the sampled counties, parents and teachers interviewed indicated a number of gaps with regard to the implementation of FPE. The observation is that in the majority of cases, there is an overlap in gaps and challenges. In most cases, when asked about the gaps, the respondents talked about the challenges. This was interpreted to mean that the gaps are part and parcel of the challenges. They are thus handled jointly in this report. The research findings indicate the following as the key challenges: poor quality of education, equity issues, overpopulation, use of mother tongue, poor management of schools, privatization, inadequate funding, lack of support from parents and environmental challenges. These
are discussed within a human rights framework that seeks to establish to what extent FPE is a human rights issue. What is emerging clearly is that the implementation of FPE is plagued by many challenges, a situation that calls to question the realisation of free and compulsory basic education as a human right.

3.5.2 Quality, access and equity

Parents in all of the schools sampled pointed out the gap created by the ambivalent nature of the gains of FPE arguing that even though the program has evidently increased access to education, the classes available are inadequate and so the need for construction of more classes should be a priority, to reduce the overcrowding in the classes. In addition, with regard to the provision of quality education, the student-teacher ratio is high at about 1:70 compared to the recommended, 1:50 and thus even though the teachers are there, this compromises the quality of education as a teacher cannot teach effectively. Furthermore, the books provided are not enough because on average parents indicated that three, and in some cases up to four children share one book. This is particularly challenging especially in cases where the children are day scholars and live far apart, meaning that some children end up not doing homework. Some of the parents captured this challenge as follows:

The quality of education is very low because of the low number of textbooks, because four or five children share a single textbook. The classrooms are also overcrowded and the desks provided are not enough. Up to three or four children are found sharing a desk meant for two; this interferes with the children’s concentration in class (1).

The number of teachers is also very low as evidenced by the teacher pupil ratio. The school has over 1000 pupils, so the ratio is approximately 1:70 or 1:100. These numbers are huge and the teachers cannot mark voluminous work accurately. Another concern is that the syllabuses are not finished on time because the teachers are overwhelmed (2).
In terms of relevance of education, it also emerged that parents felt there was a gap in that subjects like music, home science, mechanics and cookery are currently not taught in the 8-4-4 curriculum. They suggested that these subjects should be re-introduced into the curriculum which in their view would have great impact on students. They believe these practical subjects gear students towards polytechnics after the primary education and are more relevant than theoretical ones. In this regard, the parents are in agreement with teachers in demanding for a new curriculum as seen in the reaction by teachers to the recent curriculum change proposal demanding for subjects like “integrity” (Daily Nation 5th May 2015).

One teacher commented on the current 8-4-4 system as follows:

On the part of teachers, the 8-4-4 system is poor; it does not bring out the holistic development of a child. The fact that the education system is more exams-oriented than practical, that is why you find that the teacher is just insisting on the exam part of it and not the practical. That is why you find children who finish their exams here, when they go home, they can’t even do household chores, or even farming because our system focuses on mean scoring…they are looking at the mean score.

Further, for the teachers, there are sometimes too many children in a class, like 1:100 teacher-pupil ratio; these are so crowded that controlling them is a problem. One teacher said:

It hinders learning for the slow learners. It is difficult for the teacher to take care of them and in FPE there is no repetition. We are forced to let them go and when we do they go half baked, they have very poor results”. This implies that quality is compromised.

In terms of equity, from the parents’ point of view, continued marginalization of the boy-child due to over-emphasis on girl child education over the years was clearly indicated. The boys especially drop out of school early to go into the boda boda (motor cycle)
business meaning that girls are more in higher education than boys. Another challenge is that older children especially boys in school pose as a threat because they impregnate young school-going girls. To address the challenge of the boy child, according to the parents, the government should hire more male teachers so as to improve the discipline in their school because they believe a man commands more authority than a woman.

3.5.3 Use of mother tongue

In all the sampled schools, use of indigenous knowledge emerged as a gap in the implementation of the FPE programme because the parents argued that ‘The language of preference has always been English because the exams are set in English” - a reason why they advocate for English. Following this line of thought, the majority of parents felt that despite the government policy on mother tongue use in lower primary education, the students stand to benefit more in terms of performance in exams and the subsequent upward mobility associated with the use of English as an official language.

Most of the times they talk in English but at times they forget themselves and speak in mother tongue, but we advocate for English because exams are instructed in English. Even though in the past we were taught using mother tongue, these days we prefer if they are using English and Kiswahili.

Despite showing a clear understanding that pupils are losing their culture by not learning in their mother tongues, majority of parents maintained that they preferred their children to be taught in the official languages. However, a few felt that use of mother tongue was useful for self-expression as one pointed out thus; “In my opinion, if children are taught in Kigiriama, they will develop the skill of self-expression. It is important for cultural preservation”.

Teachers strongly expressed the view that mother tongues were especially useful for cultural expression especially in schools found in rural areas. However, they indicated the challenge of inability to use the mother tongue in these schools due to their ethnic diversity. In general, the teachers were in agreement on use of English and Kiswahili
for the pupils because English is the medium of instruction (Basic Education Act, 2013) and additionally, it helps them prepare for exams. Teachers also view the use of English as opposed to the mother tongues as a strategy for competition with the private schools; implying use of English contributes to better performance in private schools. In other words, it provides upward mobility: “We have different tribes in our area and we have competition with our counterparts in private schools”. The teachers argued that it would be easier to teach pupils about the second language using the first than it is teaching the pupils the second language (English) using the second language (English). Notwithstanding, they are not allowed to facilitate any subject in a language other than the second language except in Kiswahili lessons (in urban areas). In their view, total communication is only achieved with use of mother tongue and gestures. Overall, in view of UNESCO’s policy on the role of mother tongue in instruction, a gap is evident in the way teachers focus on use of English at the expense of the mother tongue.

3.5.4 Poor management of schools

A major challenge identified by parents was poor management of schools, especially public schools. They noted that as a result of inadequate funds from the government, parents are required to supplement school funding and this brings about conflict between head teachers and parents. In the interviews, parents brought out the fact that politics and interference by some of the actors in the Ministry of Education affects management of schools: “it is unfortunate that TSC has not been able to reign in on teachers in public schools. KNUT interferes with almost everything proposed by TSC”. In addition, the study findings also showed that lack of supervision and/or follow up of teachers by County Education officials is affecting the performance of their children negatively. In their view, teachers do not take their work seriously because they are aware that no one follows them up any more. The parents proposed that serious supervision of teachers is needed to improve and to keep them alert in their work. Majority of parents were concerned that the supervision of teachers that used to be seen before is no longer there.
They also noted that:

More teachers should be deployed. All these teachers also need to be supervised closely to see that they do their work as required. You know at times they are not efficient enough because there is no supervision thus we urge the education supervisor to do routine evaluation. Some of them do not know their responsibilities and duties towards teaching and we parents are the ones getting affected because our pupils don’t fare well.

Another challenge identified was the lack of motivation for the teachers. In this regard, the recent failure to award a salary increment to the teachers by the government was cited. Equally, the parents cited the large pupil populations as a basis for lack of motivation among teachers.

3.5.5 Privatization and FPE

The issue of privatization was mentioned by parents from all the sampled schools. They decried the high expenditure parents have to bear to take their children to private schools. One parent viewed this as a misperception on the part of the parents: “It is very sad that parents believe that you must take your child to a private school for him or her to perform better because they have enough resources and better teachers; as the money used to educate this child should have been used to take that child to secondary school or tertiary schools”. They noted that “even teachers and government officials do not take their children to public schools because they do not believe in the system”.

Another parent observed, ‘yule aliye juu, mtoto wake hasomi shule kama hizi’ (Those in high offices do not take their children to such schools). “Wako kwa academy” (They’re taken to academies). This view is largely supported by the latest developments with regard to the proposed changes from the current 8-4-4 system of education to the proposed 2-6-3-3 that has been largely publicized in the media and which was the theme in a recent stakeholders’ conference in Nairobi. Some parents believe that FPE should be for the poor and that those parents who are able should take their children to private
schools so as to reduce overpopulation in schools. For example one parent observed that parents were loaned a ‘jiko’ that uses firewood to cook for the children at a cost of Ksh500, 000. Paying the loan is a very big challenge because most parents who are able are transferring their children to private schools and the poor ones are left behind with the burden of paying for the jiko. The economic disparity among parents classified as ‘haves’ and ‘have nots’ is captured in the labelling enhanced by the perception of public schools as being for the poor. By implication, the parents therefore believe FPE is for the poor. This is an area of serious concern as addressed in the next section that deals with the solutions to these challenges.

Another view from the parents was that private schools (them) were seen positively and the public schools negatively (we). Ideologically, this is a damaging perception and the government needs to change these perceptions.

One parent said:

> We all know private primary schools perform better than public schools. Private schools have well trained teachers; this is because there is no TSC or KNUT interference. Government laxity has made many parents to take their children to private schools because the academic performance in government schools is very poor. Government should improve the status of their schools because in the end both public and private schools do the same KCPE examination.

Another parent underscored the issue of poor management in public schools as opposed to private schools as a key factor in the implementation of FPE as noted in section 3.1. One parent summed up privatization thus; “We can say that government laxity makes people to prefer private to public schools”, highlighting the challenge the government has in its effort to change the public perception of the divide between private schools versus public schools.
3.5.6 Inadequate funding and late disbursement of funds

The issue of FPE funding was often one of the initial challenges that the majority of parents cited. The most basic concern that emerged was that government funding was inadequate and to compound this challenge, the funding was often received late. While some parents only blamed the government for late disbursement of funds, parents in one school actually exonerated the government by indicating that it is the head teachers who actually delay the returns making it difficult for the next batch of funds to be released.

In some cases … the government is not to blame… the head teachers do not make their returns in time and you know… government cannot release funds before earlier returns are made. Therefore, there is need to educate head teachers to make timely returns.

This contradicts what a head teacher pointed out;

There is need for the government to provide adequate funds and on time. Also they should give directives on how they should compensate for the deficits especially when at times they disburse fewer funds. The school calendar cannot stop running because there are delays in releasing of funds. How is a head teacher expected to run the school?

Hence, the government and head teachers need to operate within the school calendar in matters of enhancing releasing of FPE funds schedules on time.

Corruption with regard to FPE funding also emerged as a strong challenge whereby some parents claimed they simply “do not know where the money goes”. A special needs teacher captured this corruption by indicating that the money normally allocated to this critical group is often embezzled so he has to keep on borrowing money for the children’s activities yet the government allocates money for this. “The money ends up in big people’s stomachs”. 
The learning resources are very limited; what the government provides is not enough to address the demands of the children in terms of books, desks and classrooms. The growing populations in schools require that the government build more schools because parents are bringing their children to school in large numbers.

The limited resources actually compound the challenges faced by the children with special needs, as pointed out by one parent: “the special unit does not have the required facilities which makes it hard for parents to bring their children to school because they will not get the necessary treatment they require so they prefer to stay at home with them”. Indeed, this study established that there are no structures in place to enhance monitoring, supervision and quality control in schools to ensure children with special needs and disabilities are provided for without discrimination. Moreover, lack of resources compounds this problem, hence making the implementation of the National SNE policy (2009), unattainable. There is need therefore, for not only increased funding, but also for this funding to be informed by the unit costs for each kind of disability. This should be done, while strengthening inclusion in mainstream schools, as espoused in the constitution.

Parents underscored the irony of FPE. They stated that they had to pay for PTA teachers, buy books because the ones offered are not enough and make other payments, which should not be the case because they know that there is FPE and they should not incur any cost. They suggested that the money allocated to FPE should be increased so as to cater for the growing population of children. The government should give the school enough learning resources, so that the children do not lack. Overall, it was observed that parents actually paid more under the FPE policy than when it was not in place. The parents also indicated that the government does not allocate money for building classrooms in its yearly budget when it is disbursing money to schools. They also lamented that classrooms are overcrowded and desks are not enough as they are often shared by four or five children.
Parents also indicated that the funds distribution formula was unfair to schools with large populations. One parent expressed their frustration with the FPE funding as follows:

The little funds that come from the government do not come on time for example in 2016; the money was disbursed in mid-February instead of early January which creates a challenge because parents have to wait for that money. Another issue is that the government’s funds are not constant because they might disburse 1,200 per child in one year and disburse 800 the following year. This difference makes it hard when it comes to preparing a budget. Schools which are located in rural areas do not receive funds on time compared to the ones in urban areas. For example, the funds might come at the end of the term … parents were concerned because at the end of it all these children will do the same examinations and they do not have the same privileges [as those in private schools]. It has also resulted to the parents doubting if the government had goodwill when it introduced FPE because of the way things are being done. The government releases less money which also comes after a long wait. They should have known that the teachers’ workload would increase and that they would be required to pay them well, hence unending teacher strikes.

Some of the parents strongly believe that the government had no intention of providing FPE, and that is why it is working with poorly formulated structures. This is corroborated with what a head teacher averred:

For delayed disbursement of funds, it is a thorny issue. Here I have parents who think that the government has released money and on the other hand it has been delayed and even when it comes, it is not enough. In terms of numbers, this money is calculated per head, making those schools that have big numbers enjoy more benefits from it. This is because in order to provide the same services to the learners, when they are in large numbers it tends to be cheaper. This makes it difficult for us to run these small schools. We can never be equal as schools.
Thus, there is need to provide adequate funds and in good time for the school programs to run smoothly. The teachers, parents and head teachers were therefore largely in agreement on inadequate funding especially in underscoring the delays and their effects on the learners and management of the schools.

3.5.7 Lack of support from parents

While parents attribute the problems of FPE implementation to other agents, it also emerged that they also pose a challenge in the way they respond to it. Some parents neglect their responsibilities arguing literally that FPE means education is totally “free”. In the process, they even do not buy uniform and other basic needs for their children. This study confirmed findings by previous scholars notably Orodho et al. (2013), who underscore that parents, misinterpreted free education to mean that the government would provide everything including school uniforms.

One parent noted:

Most parents have relaxed and they do not know the roles they need to play, some parents do not even provide food for their children simply because they know that there is FPE, and others do not care how their children are dressed, they just tell them to go to school. There are many cases of children who go to school with torn clothes or without under garments.

Teachers were also largely in agreement on the lack of support from parents. For example one of them observed; “there is poor support from parents thus making transition for other students who have excelled difficult”, “wazazi wengine wazembe” (some parents are lazy). The teachers expressed the view that people at the coast have a negative attitude to the FPE due to lack of prior sensitisation by government. Exercise books are issued once a year so when they are filled up, some parents do not buy others for their children. They prefer contributing to weddings than to the school, since according to them, the government is providing ‘everything’ for their children to be in school. These parents need to be sensitized on the importance of education and the role they need to
play so that children can go to school.

Further, although the teachers were very open on the problems emanating from early marriage and Female Genital Mutilation (FGM) the parents in most cases were silent about it until they were probed. For example in one school the parents denied there was drug abuse but one of them dismissed this silence and agreed that this was a challenge. Other challenges pointed out by the teachers were cultural. For example, many pupils attended burial ceremonies and weddings during school days thus leading to absenteeism. According to one of the teachers:

The way the students handle the books is poor so the books do not last for long. There is also lack of proper communication between parents and teachers making some parents overlook the importance of education and all that it entails. This makes it rather difficult for the teacher to manage when both the parents and their children do not see the value of education. Cooperation from the parents is lacking.

Teachers also underscored lack of support from parents occasioned by parents failing to take their young children to school for ECDE to avoid paying school fees due to the misconception that basic education is free and yet ECDE is not covered under the FPE programme. These parents end up keeping the children at home for so long that they sometimes become overage hence leading to challenges related to overage learners.

As we have said, some children are over age. This poses a problem for the teachers. One teacher gave an example of a child who is 14 years old, supposed to be in class 8 but is in class 1. The implication is that such a child might have difficulties in carrying out a particular task because they are past that age. He or she might not take some activities seriously because they perceive them as childish; this child ends up disturbing others because he or she is not concentrating. Another problem is that some of them become pregnant because they have matured and are able to conceive.
3.5.8 Environmental challenges

Both teachers and parents explain lack of parents’ support by citing the squatter problem (land ownership problem) whereby some parents come from very densely populated areas like Taita Taveta County. This was an environmental challenge to the parents as the land they live on cannot fully sustain them as a source of livelihood. Although such parents appear to inhabit a very fertile place, they are deeply affected by poverty due to lack of land and this makes it difficult for them to meet their obligations as parents.

3.5.8.1 Challenges in ASALs

Most areas in the Coast region are environmentally harsh. They are jigger infested and are classified as Arid and Semi-Arid Lands (ASALs). These include parts of Taita Taveta, Kilifi, Lamu, Tana River and Kwale Counties. In particular pastoralist parents face unique challenges as the majority of children continue to look after livestock instead of being in school. For example some children were herding cattle right outside one school and yet the parents insisted that they had brought all their children to school. The teachers were also concerned that some of the parents in these communities lacked respect for the teachers. They would come to school and address the children directly through the window without consulting the teacher as observed during our visit. This conflict between teachers and parents was particularly prominent in schools in pastoralist communities probably due to the lifestyle of these communities. The parents would like to control their children all the time and the teachers would like to also assert their authority during school hours but this remains a challenge.

The same pastoral community was largely silent on challenges regarding FGM, drug abuse and early marriages. They would literally turn to each other, converse in their mother tongue and then talk to us. In such cases they would collude to have one answer where in most cases they denied existence of the mentioned challenges. However, it was clear that the challenge posed a threat to realisation of provision of free education.
A head teacher aptly put it thus

FGM here is no secret, when it comes to the season for that when they feel the child is of age, they are withdrawn from school, undergo the process and then are married off. Some are even way laid by young men from their community with permission from the girls’ parents, and they are married off. This we get to learn from their peers because we encourage them to go in groups when coming to school or when going back home, because of the distance.

In general, in the ASALs, culture posed a challenge as the way of life affected both parents and children. Whereas the majority indicated that they would like to have a lifestyle change in order for their children to complete school, the reality on the ground is that a significant number have not accepted to change their lifestyles. In addition, the children walk very long distances to school and sometimes when they go for lunch they do not come back. This is worsened by lack of food which in some cases leads to poor health. The government-funded feeding programme that was initially there has been withdrawn in the majority of the schools sampled, leading to high drop-out rates. The few schools that have managed to sustain this programme were very delighted about it because it plays a significant role in improving access to education.

The children from ASALs especially the boys drop out of school to either sell clothes on market days where they get paid Kshs 100 per day or get involved in boda boda (motor cycle) business. These economic activities have mainly contributed to high drop-out rates for the boy-child in the study areas.

Teachers noted that the community environment posed a challenge to the school-going children. A parent said “we have bad people in our midst”. They went ahead to explain that a child aged 8 years had been raped and murdered. Though they were able to track the culprits they were of the opinion that the community including the children and their parents needed to be sensitized or made aware of the environment. In some of the areas lack of water and electricity was a major challenge, which made it difficult to even establish boarding facilities for class 8 pupils.
3.5.8.2 Challenges in urban schools

Child labour emerged as a problem in Mombasa town schools as one teacher put it: “the children are made to do work like construction, brewing alcohol, beba beba, [burden bearers], unloading lorry ya mchanga (lorries that ferry sand) and they get about Kshs 1000 per day, watakuja shule kufanya nini (what do they come to do in school?”)

In the town drug use was a major challenge: “Sometimes drug sellers are hovering around the school compound, some of the students had become addicted to drugs” whereas some children were sexually exploited. For instance, a case was reported of a girl who was found fornicating and when she was questioned she said “God has given me free, I give it free”. Outdoor entertainment was also a challenge. Many students get distracted with all the music from around the school and most of them after school join dancing and merry-making forgetting to do homework. Those who use ferry services for transport to come to school were also prone to problems in case of strikes. It would mean they would not get to school.

In summary, the head teachers corroborated what the other teachers told us although they tried to justify the extra charges the parents are asked to make while the parents complained about them. This can be understood in relation to their position of authority in schools and the position of the parents as caretakers in the communities. From the foregoing, it is worth to note that whereas the FPE programme is making significant progress; its implementation is being hampered by these challenges making the achievement of FPE a mirage. In other words, it is difficult to realize the free and compulsory basic education as a human right unless these challenges are addressed.
3.6 Solutions and Interventional Measures to Resolve the Challenges Facing Free and Compulsory Basic Education

3.6.0. Introduction

One of the achievements of free and compulsory basic education in Kenya especially in the coastal region is improved access to education as evidenced in urban, ASAL and even rural areas. However, not all children are able to access education due to a number of challenges. Even for those who join school, not all of them are able to complete the primary school cycle. Consequently, going by the Constitution of Kenya, Article 53 (1) (b) which states that every child has a right to free and compulsory basic education, and the Children’s Act of 2001 which protects every child’s right to education, then there is need to ensure that all children are provided with education as a basic human right.

Although Kenya has made efforts to develop comprehensive laws and policy framework to protect and implement the right to basic education which is aligned with international human rights treaties, the outcome of this study indicates that there are challenges that have hindered its full actualisation. Firstly, there is a gap between these laws and policy framework in place and their practice as far as their enforcement is concerned, thereby, making the realisation of free basic and compulsory education a challenge. Additionally, the provision of this education requires that the children are sent to school, and consequently, the onus rests on the parents and the community in ensuring that these children attend school. However, due to the aforementioned challenges, this has not been realised. These challenges can, however, be solved through the strategies discussed below that this study recommends to ensure retention; promotion of quality education and enhancement of equity in education.

3.6.2. Enhancing retention in school

In order for free and compulsory basic education to be a reality, provision of tuition free education, whereby the burden of paying school fees is fully taken care of by the
government, must be addressed. This, however, is not the case as was found in this study. The payment of assessment fees, activity fee and contribution towards teachers’ salary, for any extra teacher hired by the school are borne by the parents, majority of whom are very poor. The head teachers indicated that out of the Ksh. 370/= paid by each child, only Ksh. 40/- remains in the school, whereas the rest is taken to the County Education office as one head teacher explained in an excerpt illustrated earlier.

Both teachers and parents confirmed various kinds of payments, and the need for the County Government to assist poor parents access education for their children instead of asking for money from them through the schools, thereby making the intended free education, very costly. This implies that the activity fee at school level had little impact for the school to fully engage in extracurricular activities throughout the year. Though these charges are not regarded as tuition fees, which the national government has committed to pay for every child in full, they are critical in facilitating the child to fully enjoy quality education. Parents decried these charges and felt that the county governments ought to be involved in this endeavour. This way, the governments (national and county) could help remove the burden off the parents’ shoulders.

This study is, therefore, of the opinion that the modalities of implementing free and compulsory basic education require revision and clarity so that all the stakeholders are clear on their roles. Thus the head teachers need to involve the local community in school budgeting and its implementation. On the other hand the government should disburse adequate funds and on time, since these delays lead to schools incurring extra charges from banks in terms of overdrafts as they try to sustain the smooth running of schools. Moreover, teaching and learning will be enhanced since provision of instructional materials; infrastructure and financial resources will be availed on time. This will enable the government meet its obligations as stipulated in the 2013 Basic Education Act, Part IV (Article 39).

Although the government’s intention of provision of free basic and compulsory education is to have all children in school especially those who would have failed due to lack of school fees, the presence of the child in school is also hindered by other challenges
which cannot be underestimated. This study showed that failure to attend school is also caused by environmental, cultural, social and economic reasons. This study, therefore, found the need for awareness and sensitisation among the parents on the importance of sending children to school whether boys or girls. Child labour practices are prohibited going by the Kenyan Constitution, hence these need to be dealt with legally. Furthermore, cultural practices that are retrogressive should be discouraged. Such practices include, FGM, early marriages, raising money through children attending burial ceremonies commonly known as “disco matanga” in the local language. This calls for the county governments to enforce laws banning such practices and facilitating the attendance of school by taking action against parents who do not adhere to them. A head teacher was quoted saying:

With no caning nowadays, we report truancy cases to the chief of the area who takes it upon himself to summon the child to his office. He then takes the role of a parent and ensures that the child reports to him after a specified time interval to ensure that they are on the right track. ...Some of these parents don’t care how many days a child is away from school. The chief of the area in some of these ‘disco matangas’ takes it upon himself to announce after a certain hour of the night to school going children to vacate the place and go home and sleep because they would be required in school the next day.

In another region involved in this study, the schools were already operating in shifts, indicating that the effects of free basic and compulsory education had made achievements. However, with regards to special needs children, most parents still kept them at home when the other children attended school. Therefore, law enforcement is important since this is against the constitution. In addition, majority of teachers suggested that the local area chief may be used to promote school attendance. One of the teachers had this to say:

For this to be carried out properly there is need to bring out all those children with disabilities who are at home. Actually, they are very many but parents many have not been willing to give them out to us as educators. I don’t know
whether it is a sort of stigma or what because some of them have not accepted that kind of child in their family. So if this education to them is going to be free, and compulsory, it means that there is also the need to make an effort…and this effort is going to be directed to the parents to bring their children to school. Or even if it is for the government to come in, it can get some people who will be going into the villages to fish these children out so that we can get access to them and educate them; that would be very vital.

Another approach would be by having parents sensitized on their roles in the life of the child in relation to the FPE policy framework. This is because this would play a part in ensuring that the children not only attend school, but their wellbeing is also taken care of. Some of the parents and teachers suggested that the food provided be free also while others indicated that whereas the girls get sanitary towels, the boys should be provided with underpants. This study is of the opinion that though the government should make provision for other things apart from tuition fees, there is need for awareness creation among parents on their parental role so that the government may be able to deliver in the provision of free and compulsory education. A head teacher aptly put it: “parental attitude which also highly influences the way a child attends school needs to be addressed through awareness and sensitization”.

3.6.3 Promoting quality education

Although the government is mandated by the constitution to provide free and compulsory basic education, the component of quality has not been realised. Inadequate funding to schools quite often implies that schools run short of funds necessary to support the purchasing of instructional resources, furniture and putting up of essential school infrastructure. This implies that quality of education is compromised since there is a shortage of funds to purchase enough books and even pay qualified teachers. This problem is further compounded by late disbursement of free education funds which delays the procurement procedures in most schools. The study is therefore of the opinion that there is need for guidelines on the part of the school heads on how the resources should be utilised. Additionally, there is need for regular supervision to ensure that the
allocated money is utilised for the budgeted vote heads. Following this line of thought, parents decried the need for monitoring to ensure that the money is spent appropriately. This study therefore recommends that the government should disburse adequate funds and ensure that financial records are thoroughly audited. Institutionalised monitoring on funds usage is needed. Moreover, the head teachers need induction courses and continued capacity building on financial management since they are the ones generally managing the schools. This is a government requirement that head teachers undergo a KEMI (Kenya Education Management Institute) training course, as confirmed by all the head teachers involved in this study.

The government should also employ enough teachers in order to cater for the high numbers that are enrolled in school as a result of free and compulsory basic education. This is in line with promoting quality education as enshrined in the Constitution of Kenya (2010). The head teachers in all the schools pointed out this fact. Majority of the schools involved in this study reported in some cases having hired teachers through PTA (Parents-Teachers’ Association), whereby parents are expected to pay them. Teachers are poorly motivated as the parents and the head teachers pointed out, yet they are expected to handle very many pupils per class. This calls for the government to establish ways of motivating them for the increased and overwhelming work as a result of the large numbers they handle. One of the parents pointed out:

The government has made parents take pupils to school but the teacher-pupil ratio in these schools is about 1:70. You find that the teacher is not able to handle the class...not even marking for all those children...there is no keenness in assessing the pupils because they are too many. Another challenge is that we, the parents are overburdened. A parent is not able to have all the children in school. You find yourself with two pupils in school and four at home, because they cannot pay the required money by the school. Let the money that the government promised to provide this free education reach to all at the grass root level. Let the government employ enough teachers and motivate them well. The government should plan for this programme properly, in short.
In this regard, this study maintains that quality of education may also be enhanced by not only employing of more teachers, but also by introducing performance contracting whose implementation is underway. On the other hand, for quality and equity issues to be realised, provision of infrastructure including classrooms, furniture, instructional materials, food and water especially for ASAL areas, requires highly coordinated mobilisation of funds at both County and National government levels, together with NGOs and other organisations.

Furthermore, in consideration of the availability of resources such as textbooks, in some schools the ratio is quite low with majority of the schools ranging about 1:6 in ASAL and hard-to-reach areas, while it is about 1:3 in urban areas, indicating that there exists some inequity in provision of resources. This is a challenge in terms of promoting quality education. Lack of adequate desks was also reported by majority of teachers and head teachers, yet all the schools receive funding from the government in order to provide quality education to all. Still some parents feel that mismanagement of these funds has a role to play in the current state of affairs and hence, without constant monitoring of the schools, quality of education is jeopardised. Therefore, there is need for the government, through the Ministry of Education, to put in place constant supervision of the usage of funds to ensure proper accountability. To eliminate suspicion among the parents that head teachers mismanage funds and for accountability purposes, involvement of the parents and the local community in the management of school funds is critical. However, some of schools have had other organisations sponsoring construction of extra classes and provision of furniture, hence facilitating promotion of quality education. This also points to the need for involvement of other organisations and well-wishers to help with infrastructure development where possible in order to relieve some of these challenges.

Thus, inadequate financing of education by the government, coupled with lack of clear guidelines on the use of these funds have contributed to low quality in education. Consequently, this has led to parents being burdened with the role of paying extra charges so as to have their children in school. Some of the parents confirmed taking their children to private schools up to standard 6, after which they cross over to the public schools for the last two years of the cycle. This is attributed to the exam oriented curriculum that is in
place where performance in KCPE (Kenya Certificate of Primary Education) is regarded highly as a determinant for placement in good secondary schools. This willingness by the same parents to pay for private education, compromises the implementation of free primary and compulsory education. Quality of education in public schools therefore needs redress and measures need to be put in place so that disadvantaged children are able to compete fairly with those in private schools.

Furthermore, the use of mother tongue as a language of instruction especially during the early years of schooling has been largely ignored. This is due to the belief that English contributes to better performance in national exams. Therefore, there is need for sensitisation and awareness on the role of the mother tongue on preservation of indigenous knowledge.

Majority of schools do not have facilities to cater for children with disabilities, yet, Article 12 of the Children’s Act 2001 stipulates that they need to be accorded appropriate education. This, however, has not been given adequate attention as majority of the schools reported that they did not have trained teachers to cater for children with disability. In some cases the facilities necessary for such children are in a deplorable state. There is need therefore to in-service teachers currently handling special needs learners and properly equip special unit establishments with both human and material resources. Provision of “teacher aids” is critical in this endeavour as one teacher pointed out:

Without teachers who can handle such children with different disabilities, it has been difficult to have them around here in the school. I had one teacher who is trained in dealing with such children and after she left, it is now two years but I have not been able to get another teacher. Although, for her it was because she fell sick, I expected to find another teacher to help her because these kinds of children demand more attention. In fact, you find that you may need two teachers to handle one class of such children. The government can come in if it has goodwill, together with NGOs to help such children.

Majority of the head teachers to a great extent agree that children with disability have
received minimal attention, hence the need to have clear guidelines on their education provision within the mainstream schooling system. The guidelines should ensure constant monitoring and follow-ups to avoid them being neglected. If such hindrances are addressed, then provision of FPE among this special group will be a success.

3.6.4 Enhancing equity in education

Equity in the provision of free and compulsory education is fundamental towards realisation of the FPE goals. To this end, all citizens must access education regardless of, gender, region, race or ethnicity. Children with disability and minority groups need to be considered for this education in line with the Constitution of Kenya, 2010. This study clearly indicates that the boy child has been more neglected in terms of education, than the girl child largely due to poverty levels which makes boys get engaged in income generating activities such as those at construction sites (for those in town), bodaboda (motorbike transport services, chang’aa brewing (local liquor) and selling of second hand clothes. Majority of the head teachers were generally of the opinion that there is need for law enforcers especially the local chiefs, to ensure that all children are in school and are protected from child labour. On the other hand, their parents need sensitisation and awareness on the need to have their children attend school. Once this is done, then equity will be realised in promotion of education for all.

The Constitution of Kenya provides that persons with any disability are entitled to access to education. Moreover, the 2013 Basic Education Act guarantees access to education without discrimination. This however is not reflected in the provision of education under free and compulsory basic education when one looks at the way some of the children with disability cannot be integrated within the normal school program since they require specialised educational attention.

This study found out that majority of parents with special needs children hide them at home and the few who are brought to school get minimal help from teachers most of whom are not trained in the area of special education. Parents and teachers are of the opinion that parents with such children should be sensitised to take their children to
special education institutions, while those that can be accommodated in the mainstream schools are taken to school. The government, on the other hand, should post more SNE teachers in integrated schools to cater for the needs of special learners. Furthermore, the money provided by the government for children with special needs should not be directed to other uses as alluded to by one parent who argued that:

In most instances, disabilities are considered special cases. There is need for a circular from the government giving directives that this and that needs to be done. Any kind of funding therefore needs proper accounting…we need to know as parents, what money is set aside for children with special needs, practicals, and such like things. We need to know how the money allocated for special needs, practicals, etc. is spent. The teacher in charge of the special unit together with the parents and other teachers should do the budget for children with special needs.

This implies that equity can be attained when monies allocated for children with disability are utilised for the specified purpose and when stakeholders are involved in the planning and budgeting process.

For children in ASAL areas and slums to access free and compulsory basic education, this study maintains that there are certain basic needs that require their attention. This is because they cannot stay in school without appropriate incentives to learn and complete basic education as spelt out in the Basic Education Act, 2013. Therefore, it calls for the government to use a multifaceted approach in educational provision for children in such regions. This is by providing food programmes, water and in some cases boarding facilities so that learning can take place. Since the funds may not be adequate to do all that, there is need for involvement of other stakeholders in provision of some of these services.
A head teacher submitted:

Some of these children you are seeing here rely on the only meal provided here at school. Now... tell me what will happen if the food program is withdrawn.... I will have very few of them. Most of them are here because they will get something for the stomach and then education is secondary. But as for help, our politicians (referring to local area member of parliament) come promise to do something and then you do not see them again. But we need boarding facilities especially for standard 8 because some walk very long distances to school, and yet will be competing with the other children who are better placed come KCPE.

Conversely, on matters of socially related challenges, such as drug abuse, immorality and security, the pupils require sensitization and awareness on the impact that such may have on their lives and ways to avoid getting involved in them. As a teacher observed:

Schools need to outline new disciplinary rules to make the teaching environment more conducive, this should be more than use of counselling. On the part of parents, they need sensitization and awareness on the importance of education... And as for those parents who don't take their children to school, serious action be taken against them. Creating awareness means increasing the number of staff so that the sensitization of the students on impacts of drug abuse and social immorality is done thoroughly.

The implication of this text is that there is need for increase in capacity building of teachers so that guidance and counselling can be utilised more in dealing with the various challenges that the pupils may be undergoing. Equity related challenges therefore require mainly awareness and sensitization of the community and pupils at large.
3.6.5 Solutions to policy gaps

The outcome of this study indicates that education is not essentially free; hence, it is hard to make it compulsory. This in effect implies that the constitutional right of majority of Kenyan children is violated. At the same time what the government intended to be “free” has ended up being costly. Furthermore, instead of majority of the parents taking their children to public schools where education is free, they have ended up taking them to private schools in the quest for quality education which is seen as lacking in public primary schools despite the high cost of education in private academies. Therefore, this study suggests that the FPE policy should be reviewed with the aim of making more budgetary allocations to schools taking into account the inflationary trends in order to allow public schools put up the necessary infrastructure for quality improvement. This way they can stand to compete with the private schools in terms of quality and definitely remain attractive in the long run. Equally, FPE funds’ allocation criteria should be revised to include other parameters such as location of school instead of the current one which is pegged on the number of pupils. This will ensure that schools located in ASAL and other hard-to -reach areas such as slums which this study recommends its inclusion in this category, benefit as the additional funds will enable the schools to put up boarding facilities and initiate feeding programmes which will go a long way in ensuring that more students get appropriate incentives to learn and complete basic education (Basic Education Act, 2013, Article 35). On the other hand, in order for schools to cater for learners with disabilities, there is need for increased staffing of teachers and more so those who can take care of learners with special needs. There is need for establishment of special schools provision for adequate funding to cater for learners with disabilities in line with the Basic Education Act, 2013 (Article 35).

Most importantly, there is need to ensure that government through the on-going curriculum review moves away from a curriculum that is exam oriented in order to eradicate the unfair competition resulting from the quest to perform highly in KCPE exams by private schools. This has led to parents transferring their children from public to private schools, where the cost of education is exorbitant, hence undermining the very intention of FPE. Therefore, the Ministry of Education (MoE), Kenya Institute of Curriculum
Development (KICD) and other stakeholders should address these challenges at policy level in order to fight discrimination of special groups from accessing education, due to poverty or other obstacles. Additionally, the need for affirmative action may also be vital in order for the marginalised and the minorities to be provided with special opportunities for education, hence, making the right to basic education a reality.

Finally, the KNCHR needs to sensitisise all the stakeholders on their roles and responsibilities in order to actualise basic education as a human right. This starts with the government both at the national and county levels, then the local communities, the head teachers and even the children. Consequently, if all stakeholders are aware of their roles and rights, then the right to free and compulsory basic education can be actualised.
CHAPTER FOUR

Conclusions and Recommendations

4.0 Introduction

Education as a right for all children is covered under the laws of Kenya and under international legal instruments that the country is signatory to. The country has developed a rigorous legislative and policy framework for the implementation of basic and compulsory education. The purpose of this study was to assess the impact of financing of FPE on access to education from a human rights perspective. The study therefore sought to establish the extent of the implementation of the policies on FPE and their impact on access to quality education by all children irrespective of diversity. This chapter presents the conclusions emanating from the findings of the study as discussed in chapter three and the recommendations accruing from the findings.

4.1 Conclusions

From the results of the study, it emerged that key stakeholders in education including the parents, teachers and head teachers are conversant with the aims and policies of free and compulsory basic education. However, many do not conceptualize the policy within the wider context of human rights and specifically the rights of the child. It also emerged that most of the stakeholders do not understand the policy framework for the implementation of free and compulsory basic education. It was evident that there are gaps between government policy on FPE implementation and the practice on the ground. Families and communities were not fully sensitized on their roles in implementation of FPE. In addition, there is general lack of coordination among the education agencies and stakeholders in implementing the strategies for FPE. There is, therefore, need for awareness campaigns to sensitize the stakeholders on their role expectations for the success of the implementation strategies for FPE.
Despite the provision that no parent or guardian is expected to pay tuition for a child in public primary schools, parents are required to top up on votes where government funding is inadequate. This is especially so in the vote heads for extra-curricular activities, examinations and payment of bills for services. With regard to the funding of FPE, there is the challenge posed by late disbursement of funds and lack of accountability in the use of the funds by schools. The government should come out clearly and ensure that provisions related to funding are adhered to. The government should also declare its capacity to provide for FPE and encourage schools to raise funds or charge minimal levies to bridge the gaps.

There are no clear guidelines on implementation of the government policy on use of mother tongue as the language of instruction in lower primary schools. In most, if not all the schools visited, the medium of instruction was English. No school had a programme on mother tongue education. Preference of English was based on the fact that examinations are set in English and therefore the opinion of the respondents, most specifically parents was that teaching mother tongue is out-dated. This is more so because of the fact that a good number of teachers come from other communities and there is also ethnic diversity among the learners.

With regard to the education of learners with special needs, the study found that there is no particular attention paid to the gifted and talented learners despite provisions within the legislative and policy framework that call for their consideration. For learners with disabilities, it was found that the government has continued to disburse funds for their education as well as trying to provide a special teacher for every special unit in schools. In the schools, there are commendable efforts to create a facilitative environment that is friendly to the learners with disabilities. However, despite the campaign to sensitize families and communities to take all disabled children to school, a number of households still hide the children because of stigmatization and the logistics of transporting the children to and from home.

Education in ASAL regions and informal urban settlements face a myriad challenges including inadequate basic necessities like food, water, toilets, and of walking long
distances to schools, among others. Though the government has stepped up affirmative action programmes to enhance education access and retention, there are challenges related to sustainability of these programmes. In the urban centres for example, schools face challenges related to drugs and substance abuse, illicit sex, outdoor entertainments and advertisements by companies which cause distractions and children participating in night parties in entertainment joints among others. This poses challenges in school participation among the children.

The study established that among the pastoral communities in ASAL areas, out-dated cultural practices still thrive albeit secretly. Reactions from parents indicated that there are still cases of FGM, early marriages and moran-hood. However, they were cautious to provide information possibly fearing legal implications. It also emerged that many children engage in child labour like cleaning vehicles, riding *boda boda* (motor cycle business) and selling wares among others. The *boda boda* business was also found to pose a serious threat to school girls as they get easily lured into sex leading to pregnancies and eventual dropping out of school. Abject poverty was found rampant in the ASAL and urban informal settlements which is a serious impediment to educational access and retention.

The study also established that there are parents who fail to take their children for pre-primary education where they are expected to pay levies in form of fees and other costs. When these children enrol in primary schools, they lag behind the others who attended ECDE and have already acquired basic literacy and arithmetic skills. There is therefore need for the government to consider making pre-primary education free so that all children attend ECDE before joining primary schools.

It was noted that increased enrolment due to FPE implementation led to overcrowded classrooms and overstretching the available resources in schools. In addition, the teacher-to-pupil ratio has also increased to unmanageable levels. This situation has made individualised attention difficult during instruction. The resources for teaching and other facilities have been stretched to limits leading to reduced quality of education.
However, despite the gaps and challenges enumerated above, the respondents pointed to a number of achievements and positive changes brought about as a result of the implementation of FPE. There is increased access and improved capacity for education in schools. The number of schools and equipment has greatly expanded through continuous funding by the government. There is notable improvement in equity in education reflected through gender parity. However, there is concern that the boy-child’s education is becoming more threatened because of child labour which is affecting the boy-child more than the girl-child.

There is notable improvement in access to education for children with special needs as well as enhanced facilitative environment for learning. Enhanced campaign against retrogressive cultural practices has helped retain many children in school. Stocking of schools with instructional materials through continuous replenishment of textbooks and other instructional resources has improved the quality of education. Transition rate from primary to secondary school has also improved. Despite this realization, there is need for the government to chart out clear policies in consultation with the devolved government at the county level on clear modalities of financing of education at the school level.

4.2 Recommendations

The study makes a number of recommendations in line with the objectives covered by the study. With regard to policy, there is need for the government to address pertinent issues related to the guidelines on implementation strategies for FPE. The guidelines should address the issue of financing ECDE to bridge the gap between pre-primary and primary education with a view to making ECDE free. Under this provision, the government should consider employing ECDE teachers through TSC. At present, ECDE is devolved under county governments.

The Government should consciously streamline education interventions and policies with the UN Sustainable Development Goals (SDGs), 2015. Goal 4 of the SDGs aims at ensuring inclusive and equitable quality education and promoting lifelong learning
opportunities for all especially for vulnerable children and populations, including persons with disabilities, indigenous people and poor children in rural areas. Education and training remain central drivers for social development under Kenya’s Vision 2030. Therefore, the Ministry of Education should factor this in the allocation and disbursement of capitation grants, training and research. There should also be sustained data collection and disaggregation in the education sector by the Ministry of Education and the Kenya National Bureau of Statistics in line with the targets and indicators set in the SDGs.¹

In the current study, it emerged that most of the stakeholders are not aware of the government policies on FPE. The guidelines on implementation policies should be included in sensitization campaigns, well distributed to communities and schools. The guidelines should include the government’s and community’s role in these policies. The policy guidelines implementation should also include community participation in school financial management.

The government should review the school funding policy to allow for flexibility in the general purpose accounts. This will minimise conflict between school management and parents on use of FPE funds. The school management committees should include parents’ representatives and should prioritize on needs specific to schools. The funding policy should allow for catering for region-specific needs. In addition, the government needs to increase the amount provided for FPE. Mobilization of more resources to facilitate the putting in place of infrastructure, water, boarding facilities and desks should be enhanced. This may require sourcing funds from NGOs to meet the financing gaps on the education budget. There is also need for clear guidelines on the role of both the national and the county governments in the provision of education as a human right.

Constant monitoring of the appropriate usage of the money allocated to schools will also prevent mismanagement of the money provided for FPE. The Government should therefore streamline the procurement procedures for educational materials. The

procedures should ensure efficiency and transparency. In regards to this, the Commission should look for ways of enhancing each stakeholder to play their rightful role effectively so that schools may be equipped with adequate books.

The government needs to enforce laws that will prevent children from staying away from school due to child-labour related practices. In terms of equity, access and quality the government should address the challenges highlighted in the study both by the teachers and the parents especially in the provision of adequate infrastructure notably space. In addition, the government should provide financial support for the construction of adequate classrooms to cater for the increased number of pupils in the FPE programme. This needs to be addressed with urgency in all schools but more so in schools with special needs units. Further, the study also calls for recruitment of enough teachers to cater for the increased number of pupils.

Based on the study findings, the government should increase funding to cater the needs of learners with special needs. There is also the need for the government to come up with clear implementation strategies for the education of the gifted and talented learners. The number of special units should be increased as well as increasing the number of special teachers. The government should continue sensitizing parents to take all children with special needs to schools. There should also be modalities for screening the extent of disabilities so that appropriate placements and referrals are made for severe cases that would present challenges to integrate. Further, the funding modalities must be informed by the unit costs for each kind of disability, while strengthening inclusion in mainstream schools.

The government should also allocate funds based on where schools are found since the study showed that schools faced different challenges based on their environment. Following this line of thought, the key recommendation here is that schools in ASALs should be provided with lunch through the school feeding programme while schools in urban areas especially in informal settlements get more support in terms of counselling of parents and addressing issues like drug abuse and alcoholism. Funding should take into account the individual needs of every learner in their circumstances. This is in line with
the provision of education and its uptake as a human right for the learner. There is need for affirmative action in the provision of education in the hard-to-reach and marginalised areas to ensure that there is equal access in education for all children. This is especially so in ASAL and informal settlement areas. The government in conjunction with NGOs and community leaders should strive to create an enabling environment in the rural and marginalised areas to enhance the capacity of the families to provide for the needs of the children.

Special attention should be paid to the boy-child as part of the marginalized groups and the government should put in place mentorship programmes for the boys as has been done for the girl-child. It emerged that the boy-child is lagging behind compared to the girl-child with regard to the FPE.

With regard to the current system of education, the 8-4-4, the study recommends inclusion of the arts particularly subjects like the music, art and home science as well as practical subjects such as mechanics and cookery, some of which that are not currently in the curriculum. This is because the participants in the study strongly felt that the current education system is way too theoretical to produce a holistic learner and there is therefore need to make it more practical. Further, the government should increase the capacity for schools in the form of expanded infrastructure, employment of teachers and provision of equipment to cater for the increased enrolment due to FPE.

To maintain standards in the public schools in order to make public schools compete favourably with the private schools the government should reintroduce the supervision of teachers since learners from both public and private schools sit for the same exams. This will also help to address the challenges and gaps in public schools to make privatization of education a valid alternative. In addition, the government needs to reconsider the management of schools by increasing capacity building to reduce corruption in the implementation of FPE.

Private schools should be supported to supplement the government effort to deal with enrolment rates. Such support could be through tax incentives among others. The Ministry
of Education through relevant organs should seek out joint activities between public and private schools in relation to examinations, education programmes, competitions like science, mathematics, spelling and others to encourage knowledge through information exchange. This will help to bridge the gap between private and public schools as well as provide opportunities for public schools to benchmark with private schools to enhance quality.

Policy formulation regarding the use of mother tongue in instruction both in the lower classes and the upper classes is needed to keep the learners grounded in their culture especially in rural areas. The study further recommends holding a national conference to interrogate the use of mother tongue as a human right in basic education in Kenya. This will lead to a clear policy framework for the implementation of the FPE. The government should also enhance implementation of the policy on over-age learners by encouraging them to join adult education classes. Further, the government should develop the adult education programme. There is also need for development of clear implementation strategies on use of mother tongue as the language of instruction in lower primary schools.

4.3 Areas for Further Research

This study identifies the following areas as warranting further research:

- Replication of the study to cover more areas reflecting the diversity of Kenya. This is likely to give a clearer picture of the status of the country with regard to implementation framework of FPE in the context of human rights.

- A study employing quantitative techniques to provide in-depth understanding of the perceptions of the various stakeholders on the extent of implementation of FPE in the context of human rights framework in Kenya.

- Other studies are needed to establish how free and compulsory basic education in the country can be sustained in future.
References


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