

## MEMO

To : **Speaker of the Senate**

Thro' : Clerk of the Senate

Thro' : Deputy Clerk

*Forwarded and recommended for approval for tabling.*

Thro' : Director, Committee Services – **forwarded & recommended,**

16/09/2020

From : Research Officer

Date: **16<sup>th</sup> September, 2020**

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**RE: APPROVAL FOR TABLING OF THE REPORT OF THE  
STANDING COMMITTEE ON EDUCATION ON THE REVIEW  
OF THE BASIC EDUCATION CURRICULUM FRAMEWORK**

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The **Senate Standing Committee on Education** is seeking to table its report on the **Petition** submitted through the Clerk, by **Dr. Eric Mugambi Kinyua** regarding the **Review of the Basic Education Curriculum Framework**.

This is to seek for your approval for tabling.

*Ringerah*

Humphrey Ringera  
Research Officer/Clerk to the Committee

*You may approve for tabling.*  
17/09/2020  
17 SEP 2020  
**Approved**  
Eg. *[Signature]*  
17/09/2020  
22/9/2020

Handwritten notes, possibly including the word "cattle" and other illegible scribbles.





PAPERS LAID	
DATE	24/09/20
TABLED BY	Chairperson
COMMITTEE	Health
CLERK AT THE TABLE	George

REPUBLIC OF KENYA



PARLIAMENT

THE SENATE

TWELFTH PARLIAMENT

FOURTH SESSION, 2020

THE STANDING COMMITTEE

ON

EDUCATION

REPORT ON THE CONSIDERATION OF THE PETITION ON THE REVIEW OF THE  
BASIC EDUCATION CURRICULUM FRAMEWORK

Clerk's Chambers,  
Parliament Buildings,  
P. O. Box 41842-00100,  
**NAIROBI.**

August, 2020



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## **ABBREVIATIONS AND ACRONYMS**

BECF	Basic Education Curriculum Framework
CBC	Competency Based Curriculum
COG	Council of Governors
ECDE	Early Childhood Development Education
KICD	Kenya Institute of Curriculum Development
KNEC	Kenya National Examination Council
MoE	Ministry of Education





## **PREFACE**

The Standing Committee on Education is established under standing order 218(3) of the Senate Standing Orders. The Committee is mandated to consider all matters related to education and training.

### **Mandate of the Committee**

Pursuant to the provisions of the Second Schedule of the Senate Standing Orders, the Standing Committee on Education is mandated to consider all matters relating to education and training.

1. Build capacity of Committee Members to undertake their roles in line with Article 96 of the Constitution;
2. Develop and facilitate the development of legal frameworks, policies and guidelines in the Education Sector (including but not limited to Early Childhood Development Education (ECDE) and Tertiary education (youth polytechnic);
3. Provide oversight of the Education Sector (Including not limited to ECDE and Youth polytechnics;
4. Facilitate budgetary resources toward the Education Sector (ECDE and youth polytechnic); and
5. Any matter that relates to education and training.

### **Membership of the Committee**

- |  |                    |
|--|--------------------|
| 1. Sen. (Dr.) Alice C. Milgo, MP         | - Chairperson      |
| 2. Sen. (Dr.) Agnes P. Zani, MP          | - Vice-Chairperson |
| 3. Sen. Fred Outa, MP                    | - Member           |
| 4. Sen. Mwangi Githiomi, MP              | - Member           |
| 5. Sen. (Prof.) Kithure Kindiki, EGH, MP | - Member           |
| 6. Sen. (Prof.) Imana Malachi Ekal       | - Member           |
| 7. Sen. Seneta Mary Yiane, MP            | - Member           |
| 8. Sen. Falhada Dekow, MP                | - Member           |
| 9. Sen. (Dr.) Gertrude Musuruve, MP      | - Member           |



## **EXECUTIVE SUMMARY**

**Mr. Speaker Sir,**

The Petition on the review of the Basic Education Curriculum Framework (BECF) was reported to the Senate on 27<sup>th</sup> March, 2019.

The Petitioner, Dr. Eric Mugambi Kinyua sought to draw the attention of the Senate to Basic Education Curriculum Framework document prepared by the Kenya Institute of Curriculum Development (KICD) and launched in January 2017 as the guide to on a 2-6-3-3 Competency Based Curriculum (CBC) to replace the 8-4-4 education system.

The Petition sought the intervention of the Senate to ensure that the Ministry of Education (MoE) oversees a review to improve on the design and quality of the new education curriculum.

**Mr. Speaker Sir,**

The Petitioner requested the Senate to-

- a) deal with the petition immediately in view of the urgency of the matters and seriousness of the issues presented;
- b) direct the Ministry of Education to convene a national conference open to the public to receive, discuss and adopt guiding resolutions to improve quality of 2-6-3-3 Basic Education Curriculum;
- c) direct the Kenya Institute of Curriculum Development to review and edit the BECF document and issue a revised edition that includes all necessary improvements and corrections that will be agreed on in the national conference by June 2019; and



d) direct that a sessional paper on reforming education and training for sustainable development be presented by the Ministry of Education to actualize the 2-6-3-3 basic education curriculum to resolve the challenges addressed in the petition.

**Mr. Speaker Sir.**

Pursuant to the provisions of the standing order 232 (1) of the Senate Standing Orders, the Petition was committed to the Standing Committee on Education.

**Mr. Speaker Sir,**

In considering the Petition, the Committee took into consideration the submissions and supporting documents by the petitioner, reports from the Ministry of Education and the Kenya Institute of Curriculum Development.

On behalf of the Committee and on my own behalf, I wish to sincerely thank the Petitioner, Dr. Eric Mugambi Kinyua, the Ministry of Education and the Kenya Institute of Curriculum Development for their submissions during the consideration of this Petition.

**Mr. Speaker Sir.**

During the of this Petition, the Committee observed that the core function of the KICD is to conduct research and develop curricula for all basic levels of education, the Commission for University Education (CUE) is involved in the development of curricula for University Education and the Technical and Vocational Education and Training Curriculum Development Assessment and Certification Council is mandated to undertake, design and develop curricula for the TVET Institutions.





The development of the BECF entailed a series of consultative processes that began in 2014 incorporating public engagement forums, trainings, seminars, validation workshops and meetings to develop curriculum support materials and come up with research based curricula and curriculum support materials.

These were followed up with the Pilot Program that took place through all the counties and later the BECF continued to benefit from several follow-up conferences which were held before finalization of the curriculum reports.

**Mr. Speaker Sir.**

The Competency Based Curriculum (CBC), generally entails extensive and effective training of teachers. However, by the time the CBC was being rolled out in the country, majority of the teachers had not been trained. This coupled with shortage of teachers poses a great challenge to the successful implementation of the BECF.

**Mr. Speaker Sir,** inadequate infrastructure due to extremely high enrolment in pre-primary and primary schools is already straining learning facilities. There are serious challenges related to provision of teaching and learning resources needed to successfully implemented the CBC curriculum with majority of schools facing delayed distribution and delivery of textbooks. In addition, learner and teachers' desk and chairs are inadequate.



**Mr. Speaker Sir,**

Based on these observations, the Committee therefore recommends that there is need for continuous engagement amongst all education stakeholders; learners, teachers, parents, curriculum specialists, quality assurance officers and experts, to ensure that views of all the people concerned with the process of teaching and learning are taken into account during the improvement of the BECF.

The MoE should expeditiously set up and equip a research, monitoring and evaluation department to carry out research and identify the problems or deficiencies in the BECF and provide up-to-date and reliable data to different stakeholders including the Parliament.

There is need for sufficient resources to be allocated for continuous training and capacity building to teachers, quality assurance and standards officers, and curriculum support officers and for provision of teaching and learning equipment in addition to provision of adequate resources and facilities needed for successful implementation of CBC education curriculum.

**Mr. Speaker Sir.**

As I conclude, I wish to take this opportunity to thank all the Members of the Committee for their immense contribution during consideration of this Petition that culminated in this report.

The Committee wishes to thank the Offices of the Speaker and the Clerk of the Senate for the necessary support extended to it in the conduct and execution of its mandate.

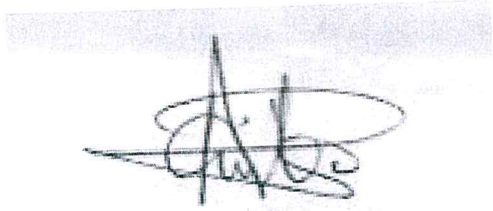


The Committee further wishes to record its appreciation for the services rendered by the staff of the Senate that enabled the production of this report.

**Mr. Speaker, Sir**

It is my pleasant duty, on behalf of the Standing Committee on Education, pursuant to standing order 232(2), to present a Report of the Standing Committee on Education on the consideration of the Petition on the Review of the Basic Education Curriculum Framework.

I thank you, Mr. Speaker



Signed.....

03/08/2020

Date.....

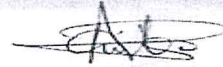
SEN. (DR.) ALICE C. MILGO, MP  
CHAIRPERSON, STANDING COMMITTEE ON EDUCATION



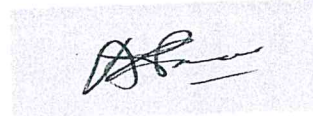


**ADOPTION OF THE COMMITTEE REPORT ON THE PETITION ON  
REVIEW OF THE BASIC EDUCATION CURRICULUM FRAMEWORK**

**We, the undersigned Members of the Senate Standing Committee on Education, do  
hereby append our signature to adopt the Report on the Petition on the Review of  
the Basic Education Curriculum Framework.**

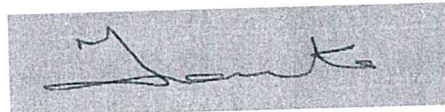


Sen. (Dr.) Alice C Milgo, MP - Chairperson



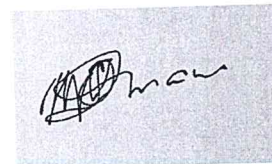
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Sen. Mwangi Githiomi, MP - Member .....

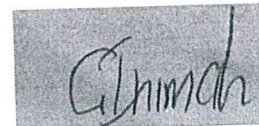


Sen. Fred Outa, MP - Member

Sen. (Prof.) Kithure Kindiki, EGH, MP - Member .....



Sen. (Prof.) Imana Malachi Ekal, MP - Member



Sen. (Dr.) Gertrude Musuruve, MP - Member

Sen. Seneta Mary Yiane, MP - Member .....

Sen. Falhada Dekow, MP - Member .....



## CHAPTER ONE

# 1. PETITION TO REVIEW THE BASIC EDUCATION CURRICULUM FRAMEWORK DOCUMENT

### 1.0 Background

On 27<sup>th</sup> March, 2019, Dr. Eric Mugambi Kinyua, presented a Petition to the Senate on the review of the Basic Education Curriculum Framework (BECF) that was launched in January, 2017 as the guide on the 2-6-3-3-Competency Based Curriculum (CBC), (Annex I).

The petition sought to draw the attention of the Senate to the following issues of concern-

- a) That several issues were identified in a report by a 'Task force on the re- alignment of education sector to the constitution of Kenya towards a sustainable economic development' submitted in 2012 to the Ministry of education that provided a basis upon which changes in basic education curriculum have been initiated and undertaken. These issues need to be addressed in the BECF document;
- b) That students in senior secondary studying career and technology track subjects do not directly qualify for diploma or degree courses is discriminative:
  - a. The career and technology studies track needs to be reviewed in the BECF to have subjects equivalent to artisan courses currently being taught in village polytechnics and vocational training that do Kenya National Examination Council (KNEC) stage examinations should be offered at junior technical secondary schools in grade 7 to 9 and not senior secondary; and



- b.** Leading to related subjects that are equivalent to craft courses being taught in senior technical schools allowing learners to proceed into diploma and under graduate programs after grade 12 just like other learners pursuing different pathways and tracks.
- c)** That the MoE should recognize nursery schools, kindergartens, day care centers and home-based learning as necessary institutions offering Pre- Primary education and mention them in the BECF as essential in a stage of child growth in relation to Article 53 (2) of the Constitution.
  - a.** Nursery school and day care centers should be registered, licensed and operations inspected by county governments. These facilities shall provide many working parents a place to leave their children in safety to stay from 6:30 am to 6:30 pm when between 4 months old and about 4 years of age during working days.
  - b.** County governments to finance development of public and community day care centers by providing infrastructure and employment of manpower.
- d)** That Kenyan indigenous languages will be discriminatively offered to learners and also foreign languages against Article 27(4) of the Constitution.
  - a.** Students in rural areas should have learning activities using vernacular of their catchment area (mother tongue) in grade 1 to 3 and not those in townships.
  - b.** If foreign languages are to be taught as optional subjects in upper primary. Public schools which depend solely on government will have no teachers since these languages are





not taught in primary teacher training colleges, unless primary schools employ private tutors.

- c. Other languages apart from Kiswahili and English should be offered to all learners in equal depth of content covering grammar, literature and culture of the ethnic speakers. BECF should be reviewed to have all students in primary schools do a third language selected either from indigenous or foreign languages. Otherwise optional languages should be offered only in secondary schools.
- e) That subject names and sequencing needs to be reorganized in the BECF document as follows:
  - a. Subjects in senior secondary should be arranged in pathways with tracks similar to the clusters currently used in form 3 and 4 to allow schools offer more than one pathway since all secondary schools in Kenya have teachers who teach a combination of 2 subjects cross cutting the pathways and tracks offered in the 2-6-3-3 curriculum.
  - b. Number of minimum subjects to be done by a specific pupil should be equal in all the tracks in senior secondary, yet BECF provides:
    - i. sports and performing arts – to do a minimum of 5 subjects;
    - ii. humanities and languages – minimum of either 5, 6 or 7 subjects;
    - iii. pure science - to do a minimum of 6 subjects;
    - iv. applied science - to do a minimum of 4 subjects;
    - v. technical and engineering - to do a minimum of 7 subjects; and



- vi. career and technology studies - to do a minimum of 4 subjects.

Extra subjects give more class work to students yet progression to colleges depends on which learner as the highest scores in Kenya Certificate of Basic Education (KCBE) therefore discriminative.

- c. Integrated science is being taught in junior secondary as a single subject yet in upper primary home science, agriculture and science are separate subjects.
- d. The sports science track needs restructuring to include all sports and games with federations or organizations in Kenya.
- e. Kenyan indigenous and foreign languages should be introduced preferably in junior secondary. It is also easier to train indigenous language teachers e.g. Kamba, Maasai, Borana, Kisii etc. at undergraduate level as one of the teaching subjects in bachelor of education programs either as a major or minor subject to distinguish between teacher who can only teach at junior secondary and those who also teach senior school and even proceed for master's degree.
- f. Some senior secondary subject content is too narrow to be taught for a period of 3 years e.g. martial arts, boxing, dance, theatre, firefighting and elocution. These proposed subjects need to be merged with others and learners who need practice to perfect their skills can join talent academies.
- g. Otherwise the mean grade criteria of admission should be abolished e.g. C+ as minimum qualification for bachelor's degree admission. Have tertiary colleges use only the cluster points in required subjects for admission during selection of



students. Unless subjects done by all are pick from equivalent weighted groups.

- f) That the subjects proposed to be taught in upper primary, junior and senior secondary should be reorganized and some merged. In the BECF document secondary schools will offer over 85 subjects, which are too many compared with currently less than 25 subjects done in 8.4.4, yet most secondary schools offer less than 15 subjects and schools still have a shortage of teaching staff.
- g) That tertiary colleges need to know the ability of 2-6-3-3 curriculum learners by obtaining curriculum designs or syllabi in all subjects at least 5 years before the first group doing a subject exits grade 12 and are awarded KCBE, to:
  - a. enable universities reorganize training syllabus in line with their entry behavior and have the syllabi approved by Commission of University Education which is quite a lengthy process; and
  - b. determine duration of degree programs and the required subject clusters for admission during placement of undergraduate courses.
- h) That the KICD should issue curriculum designs or syllabus for grade 4 to 12 before proceeding with further piloting of Basic Education Curriculum.
  - a. The planned pilot program where grade 3 of 2018 cohort is to be used for 8 consecutive years of piloting should be changed; the piloting should be completed in just two years by doing 4 classes each year. To provide space for corrections and publishing of teaching materials.





- b. Why should KICD stagger piloting of grade 4 to 9 for six years yet they did pre-primary 1 and 2 together with grade 1 to 3 (a total of 5 classes) in less than half a year in 2017.
- i) That the middle school concept plans to joining upper primary with junior secondary will have its main challenge not in building grade 9 class rooms in the existing primary schools but in ensuring the following:
  - a. It does not disadvantage pupils in lower academically performing schools that have inadequate infrastructures;
  - b. Principals in these schools may have to be appointed from graduates employed to teach junior secondary section because of their higher educational qualifications yet the bulk of staff will remain those teachers in the primary section who may resist the new management;
  - c. Teachers trained in secondary education shall have to be posted to all primary schools (over 25,000 nationally) to teach grade 7, 8 and 9 due to requirements of subject methodology and their specializations; and
  - d. Some primary schools have no land for expansion to construct the required workshops and laboratories that are necessary in junior secondary education.
- j) That the junior secondary section should be allowed to stand alone so that school managements are free to decide whether to establish junior secondary in the neighborhood of existing primary school or have both junior and senior secondary in the same institutions. While others schools offer only junior secondary especially the current single streamed secondary schools which lack facilities and teaching staff.





k) That Primary education should have 3 sections as follows:

- i. the lower primary, first 2 years of formal education.  
Currently pre – primary 1 and 2 in BECF;
- ii. the middle primary with grade 1, 2 and 3;
- iii. the upper primary with grade 4, 5 and 6;

The first two years determine a child's ability to read and write precisely.

Early childhood education trained teachers should not only teach pre – primary 1 and 2 but also teaching in grade 1, 2 and 3; while having an opportunity to be engaged in management as principals or senior teachers in their respective primary schools.

l) That village polytechnics should be transformed into technical secondary schools to offer career and technology studies track in the BECF since:

- a. with 100% transition from primary to secondary school policy in place the institutions will be dissolved;
- b. Artisan courses currently offer in village polytechnics will also be taught in secondary schools and students issued with dual certification.

m) That adult education centres should be recognized as providers of basic education in the BECF, which shall offer single subjects to persons with specific interest providing lifelong learning to citizens who need skills like:

- a. language proficiency test in foreign languages like French or Germany, and even working skills in subjects like Accounting or Agriculture etc.
- b. the adult education centres should register learners as private candidates for national examinations, to provide



facilities for secondary school leavers who want to do supplementary or special examinations offered by KNEC without having to repeat all the subjects in a regular school.

- n) That the implementation plan requires a two-tier approach to avoid an overlap in joining secondary schools by the pioneering class that completes grade 6 (those currently at grade 3 in 2019) with the last class of 8.4.4 who will be in standard 7 in 2022 then standard 8 in 2023 when the pioneers of 2,6,3,3 will be joining junior secondary at grade 7 in 2023.
- a. To avoid these scenario standard 8 pupils in 2020 to 2023 should join grade 9 instead of form 1 and do Kenya Learners Assessment Evaluation (KALE) 3 enabling them to select the pathways offered in BECF as pioneers in senior secondary. Since current 8.4.4 subjects are still offered in the senior secondary.
  - b. Then have standard 7 of 2022 do a special KNEC examination and proceed to grade 8 in junior secondary.
  - c. To allow secondary schools without the ability to immediately construct extra classrooms and other teaching facilities to just provide junior secondary education i.e. grade 7, 8 and 9, then have a national selection based on KALE 3 for learners to joining senior secondary schools to pursue their preferred pathways.
- o) That students exiting grade 9 should have ability slightly above the current form 2 class content of 8.4.4 so that grade 12 can be equivalent to form 6 or any other advanced level secondary education in common wealth countries.



- p) That it is important to have a curriculum equivalent to other East African Community member countries in relation to agreements made by member states and incorporated into the National Curriculum Policy of December 2015 on harmonization of basic education.
- q) That the learners who pass grade 9 (KALE 3) shall qualify for admission into certificate course, avoids a major challenge in the current system where students who score a mean grade of C- at K.C.S.E. qualify for the same certificate and diploma courses in a specific field when admitted into tertiary colleges.
- r) That more than half of the students who have completed form 4 in the last three consecutive years (2016 - 2018) K.C.S.E. have scored grade D and below. To check on this trend is better in the 2-6-3-3 curricula to enroll willing students completing junior secondary for certificate / craft and artisan courses rather than push them through senior secondary for 3 more years to grade 12 where if they score grade D+ or below will join the same craft or artisan courses.
- s) That there will be no national individualized examination at the end of upper primary but random sampling of grade 6 learners to assess their ability and only 30% at the end of junior secondary in grade 9 as a sit in examination with no official certificates to pupils by KNEC up to the end of senior secondary school.

I wish to submit as follows:

- a. class teacher evaluation may lack fairness due to personal interests, biasness and even pressure by school managements to award students higher scores;





- b. without uniform national individual examinations, then national and extra county secondary school selection will be replaced by school interviews for admission which will deter national integration;
- c. a National examination should be done at the end of upper primary in grade 6 (KALE 2) which is individualized providing 50% of the score under KNEC supervision, setting and marking. Then merge with teacher's evaluation done by continuous assessment of competencies to determine learner progression.
- t) That every stage (at the end of grade 6, 9 and 12) should be terminal with KNEC certification to all pupils, ensuring equality and credibility of the basic education. Otherwise grade 12 school leavers will be subjected to entrance examinations by specific universities and other colleges before being given admission letters for any courses at tertiary level.
- u) That all secondary schools currently can offer junior secondary subjects comfortably but could lack facilities required to teach subject content for grade 11 and 12. This allows the MoE to maintain the numbers of current form 1 admissions in what will be grade 7 at junior secondary. All secondary schools must maintain their current enhanced enrolment numbers in junior secondary and continue offering more streams (student population) in junior secondary than in the senior secondary section.
- v) That he had delivered hard copies explaining the above issues, by postal services and emails to the Ministry of Education, KICD and several other national offices that guide education policies since mid-2017. In response, he has only received a single





acknowledgement letter from the director KICD but the reply given was not satisfactory as it proposed that the issues can be addressed during implementation.

w) That to the best of his knowledge, the issues in respect of which this petition was made were not pending before any court of law or constitutional or legal body.

The petitioner humbly prayed that the Senate:

1. deals with the petition immediately in view of the urgency of the matter and seriousness of the issues presented herein;
2. directs the MoE to convene a national conference open to all members of public for at least three (3) days to receive, discuss and adopt guiding resolutions to improve quality of 2,6,3,3 basic education curriculum;
3. directs the KICD to review and edit the BECF document and issue a revised edition that includes all necessary improvements and corrections that will be agreed on in the national conference by June 2019; and
4. ensures that a Sessional Paper on reforming education and training for sustainable development that will be presented by the MoE in Parliament to actualize the 2-6-3-3 basic education curriculum resolves the challenges addressed in this petition.



## **CHAPTER TWO**

### **2. SUBMISSIONS**

#### **2.1 MEETING WITH THE MINISTRY OF EDUCATION**

The Committee invited the Cabinet Secretary, Ministry of Education to a consultative meeting to deliberate on the matters raised in the petition and to present to the Committee the BECF; explain whether the stakeholders were involved in its development; the process followed in its review and development and the procedure to be followed in the review and development of curricula and curriculum support materials as provided under section 29 of the KICD Act, 2013.

The Committee was informed that the MoE embarked on a consultative process of preparing a policy framework for curriculum review that culminated in the National Curriculum Policy in 2014. Several consultative forums, trainings, seminars, validation workshops and meetings to develop curriculum support materials were carried out involving all stakeholders in order to come up with research based curricula and curriculum support materials.

Further, the BECF was validated at a National Conference on curriculum reform on 30<sup>th</sup> January, 2017 where plenary discussions enriched the document further. The policy document continued to benefit from several follow-up conferences which were held before it piloting program that commenced in May, 2017 involving 470 schools, 2000 teachers and 40,000 learners in all the 47 counties in the country.

The Ministry of Education informed the Committee that students in senior secondary studying career and technology track subjects and do



not qualify for diploma or a degree course will not be discriminated. Opportunities are provided for them to join tertiary education which includes university education.

Indeed, Career and Technology Studies (CTS) schools shall provide learners with the opportunity to acquire workplace skills and knowledge. A learner who joins the CTS track shall be equipped with competencies that are required to perform effectively in the workplace and the training shall help learners to see how their strengths, interests and achievements relate to future education and training options and job and self-employment opportunities.

The CTS pathway provides a specialization opportunity for learners who have demonstrated the interest, abilities and aptitude to pursue a career in CTS and also builds on the competencies acquired in pre technical and pre-career studies at lower secondary. It equips learners with the knowledge, skills and attitudes necessary for advanced careers in CTS offered in Vocational Training Centres (VTC) and technical training colleges after which they may join a university.

The Committee was informed that Article 53 (2) of the Constitution on Kenya states that, "*A child's best interest are of paramount importance in every matter concerning the child*". The child first learning begins at home. Global best practices recognize that children should begin formal learning at 4 years. This is also indicated in EAC harmonized curriculum guidelines signed by the member states including Kenya. Nursery schools (kindergarten) and day care centers are not compulsory; it is





where mothers take their children when they are not available to care for them. The focus here is on social and emotional development activities.

The Committee was informed that language policy and global practices has shown that students in grades 1-3 learn best using their own familiar language and as such learners in rural areas will not be discriminated if they undertake learning activities using vernacular in their catchment area. Further, foreign languages will be encouraged in every county.

The Committee was further informed that BECF allows schools to align themselves in tracts not pathways. The range is globally accepted and even the 8-4-4 system provides a range to cater for different types and abilities of learners. The integrated science being taught in junior secondary as a single subject is envisaged to lead to the pure sciences in senior schools and specialization in tertiary education.

The Committee was informed that currently, secondary education offers 32 subjects and schools can offer from 12 to 32 subjects as per the schools' ability and facilities. This is similar to what is proposed in the CBC where a variety of subjects are envisaged and schools will offer learning areas according to their infrastructure.

The MoE further informed the Committee that the last cohort of 8-4-4 system will be in 2027 while the first CBC cohort will be in 2028. The CBC curriculum will be finalized by 2021, at least seven years before its first cohort go to secondary school.





The curriculum designs up to grade 4 are already in schools. Piloting is complete and the national rollout happened in 2019 and the level learning outcomes for middle school and senior school are provided in BECF. Further, guidelines for the placement of junior secondary schools are being developed and schools will be advised in good time to ensure seamless CBC implementation.

The Committee was informed that primary education has three levels; pre-primary, lower primary and upper primary. Further the village polytechnics are being considered for transformation into technical secondary schools to offer career and technology studies. Adult education will be offered basic education through Alternative Provision of Basic Education and Training (APBET) and a different pathway shall be developed.

The Committee was informed that implementation strategies for secondary education were being developed and being coordinated by the MoE to avoid an overlap in joining secondary schools by pioneering class that completes grade 6 with the class of 8-4-4 who will be in standard 8 in 2023 when the pioneers of 2-6-3-3 will be joining junior secondary at grade 7.

The Committee was further informed that grade 6 and 9 shall not have terminal assessment as the Constitution states that every child has the right to free and compulsory basic education. The Competency Based Assessment framework shall provide direction on how the summative assessment at grade 12 shall be carried out.



Implementation strategies for secondary education are being developed and being coordinated by MoE to address the challenges of facilities to teach subject content for grade 11 and 12.

The Committee was further informed that a similar petition had been filed in the Constitutional and Human Rights Division of the High Court in 2017 and settled through a judgement had been delivered on 9<sup>th</sup> April, 2018 (Annex III).



## **CHAPTER THREE**

### **3. COMMITTEE ANALYSIS OF THE SUBMISSIONS BASED ON THE PETITIONERS PRAYERS**

Taking into consideration the issues raised in the petition, the Committee considered the following issues:

- a) the law that governs curriculum development; and
- b) the institutions involved in the curricula development

#### **i. The Constitution**

Paragraphs 15 and 16 under Part 1 of the Fourth Schedule to the Constitution provide for the functions of the national government as follows

- a) education policy, standards, curricula, examinations and the granting of university charters;
- b) universities, tertiary educational institutions and other institutions of research and higher learning and primary schools, special education, secondary schools and special education institutions.

On the other hand, paragraph 9 of Part 2 of the Fourth Schedule to the Constitution provides that county governments are responsible for pre-primary education, village polytechnics, home craft centres and childcare facilities.

Article 53 (2) (b) of the Constitution provides that every child has a right to free and compulsory basic education.

Article 10 (2) (a) of the Constitution provides for public participation as one of the values and principles of governance. Therefore, each public



institution has a duty to involve the public and consider the views of the public in its decision making processes.

From the foregoing, curriculum development is a national government function while county governments are responsible for its implementation with regard to pre-primary education, village polytechnics, home craft centres and childcare facilities.

The various entities of the National and county governments are required, pursuant to Article 10 of the Constitution, to carry out public participation at the level of developing and implementing policies.

**ii. Kenya Institute of Curriculum Development Act, 2013**

The Act establishes the Kenya Institute of Curriculum Development (KICD). Under the Act the Institute's core function is to develop research informed curriculum and curriculum support materials for basic and tertiary education and training below the level of university. KICD is also charged with the responsibility of initiating and conducting research to inform curriculum policies, review and development.

In particular, section 4 of the Act provides the functions of the Institute to include, among others-

- a) *advise the Government on matters pertaining to curriculum development;*
- b) *evaluate, vet and approve, for application in Kenya, any local and foreign curricula and curriculum support materials in relation to the levels of education and training referred to in paragraph (d);*





- c) *implement the policies relating to curriculum development in basic and tertiary education and training;*
- d) *develop, review and approve programmes, curricula and curriculum support materials that meet international standards for-*
  - a. *early childhood care, development and education;*
  - b. *pre-primary education;*
  - c. *primary education;*
  - d. *secondary education;*
  - e. *adult, continuing and non-formal education;*
  - f. *teacher education and training;*
  - g. *special needs education; and*
  - h. *technical and vocational education and training.*

**iii. Universities Act No. 42 of 2012**

Part II of the Act establishes the Commission for University Education under section 4. Under section 5 of the Act the powers and functions of the Commission include-

- a) accreditation and inspection of university programs in Kenya;
- b) development of policy for criteria and requirements for admission to universities; and
- c) promotion, setting standards and assurance of relevance in the quality of university education.

**iv. The Technical and Vocational Education and Training Act, 2013**

Part VIII of the Act provides for the establishment of Technical and Vocational Education and Training Curriculum Development,



Assessment and Certification Council. Section 45 of the Act provides for the functions of the Council to include-

- a) undertaking design and development of curricula for the training institutions' examination, assessment and competence certification;
- b) making rules with respect to such examinations and competence assessments;
- c) promoting and carrying out research relating to its examinations; and
- d) promoting the publication of books and other materials relevant to its examinations.

**v. Kenya Institute for Public Policy Research and Analysis Act, 2006**

The Act provides for the establishment of the Kenya Institute for Public Policy Research and Analysis (KIPPRA). Under section 6 of the Act, the functions of the Institute are to, among others-

- a) develop capacities in public policy research and analysis and to assist the Government in the process of policy formulation and implementation; and
- b) identify and undertake independent and objective programs of research and analysis, including macroeconomic, inter-disciplinary and sectoral studies on topics affecting public policy in areas such as human resource development, social welfare, environment and natural resources, agriculture and rural development, trade and industry, public finance, money and finance, macroeconomic and microeconomic modeling.



## **CHAPTER FOUR**

### **4. COMMITTEE OBSERVATIONS AND RECOMMENDATIONS**

#### **4.1.1 Committee Observations**

The Committee made the following observations-

1. The core function of the KICD is to conduct research and develop curricula for all basic levels of education, the Commission for University Education (CUE) is involved in the development of curricula for University Education and the Technical and Vocational Education and Training Curriculum Development Assessment and Certification Council is mandated to undertake, design and develop curricula for the TVET;
2. The MoE embarked on a consultative process of preparing BECF in 2014 and held several consultative forums, trainings, seminars, validation workshops and meetings to develop curriculum support materials in order to come up with research based curricula and curriculum support materials;
3. Several National Consultative Conference on the curriculum reforms were held before the commencement of the Pilot Program. The policy document continued to benefit from several follow-up conferences which were held before finalization of the curriculum reports;
4. Although, Pilot Programs provided learners and teachers with guide books and necessary teaching and learning resources and enabled them adequate familiarization with the curriculum materials and enabled identification of problems. Majority of the schools do not have materials such as books and other teaching and learning resources;





5. Learning materials and resources had not been distributed to all learning institutions during the rolling out of the program. Additionally, the available books in the bookshops were of poor quality and most schools lacked teacher guides and handbooks. Learners and teachers' desks and chairs were also not adequate;
6. Diversity of learners with special needs was not catered for; there were inadequate materials and resources, the syllabus had not been distributed to schools, and there was no syllabus for mentally challenged learners; and
7. The preparation of teachers for the CBC curriculum was largely ineffective due to an overload of the training content, poorly conceptualized and understood CBC and lengthy lesson plans and schemes that entailed too much preparation and paper work in the midst of inadequate training materials and information.

#### **4.1.2 Committee Recommendations**

The Committee therefore recommends-

1. continuous engagement amongst all education stakeholders; learners, teachers, parents, curriculum specialists, quality assurance officers and experts, to ensure that views of all the people concerned with the process of teaching and learning are taken into account during the improvement of the BECF;
2. setting up of the research, monitoring and evaluation department within the MoE incorporating independent research institutions, academia and think-tanks to carry out research to identify the problem or deficiencies in the BECF and provide up-to-date and reliable data;





3. sufficient allocation of resources for continuous training and capacity building to teachers, quality assurance and standards officers, and curriculum support officers and for provision of teaching and learning equipment; and
4. that the MoE should assist learning institutions in construction of classrooms to cater for pre-primary and primary school learners as well as provision of adequate resources and facilities needed for successful implementation of CBC education curriculum;



Annexures

**Annex 1: The Petition**

**To:**

**The Clerk of the Senate**

Parliament Buildings

P.O. Box 41842 – 00100

**NAIROBI.**

11<sup>th</sup> February, 2019

**RE: PETITION TO THE SENATE UNDER ARTICLE 37 AND 119 OF  
THE CONSTITUTION, TO PETITION MINISTRY OF EDUCATION  
TO REVIEW THE BASIC EDUCATION CURRICULUM  
FRAMEWORK DOCUMENT TO IMPROVE THE QUALITY OF  
2,6,3,3 COMPETENCY BASED EDUCATION.**

---

I, Eric Mugambi Kinyua, the under signed,

A citizen of the republic of Kenya and resident of Meru County wish to state that it is in public interest that I formally lodge this petition concerning Basic Education Curriculum Framework (BECF) document prepared by Kenya Institute of Curriculum Development (KICD) and launched in January 2017 as the guide on a 2,6,3,3 competence based curriculum to replace the 8.4.4 education system. This is to Petition the Ministry of education (MoE) to oversee a review to improve on design and quality of the new education curriculum.



**I humbly draw the attention of the Senate to the following —**

1. **THAT** several issues were identified in a report by a ‘Task force on the re-alignment of education sector to the constitution of Kenya towards a sustainable economic development’ submitted in 2012 to the Ministry of education that provided a basis upon which changes in basic education curriculum have been initiated and undertaken. These issues need to be addressed in the BECF document.
2. **THAT** students in senior secondary studying career and technology track subjects do not directly qualify for diploma or degree courses is discriminative -
  - a) The career and technology studies track needs to be reviewed in the BECF to have subjects equivalent to artisan courses currently being taught in village polytechnics and vocational training that do Kenya National Examination Council (KNEC) stage examinations should be offered at junior technical secondary schools in grade 7 to 9 and not senior secondary.
  - b) Leading to related subjects that are equivalent to craft courses being taught in senior technical schools allowing learners to proceed into diploma and under graduate programs after grade 12 just like other learners pursuing different pathways and tracks.
3. **THAT** the MoE should recognize nursery schools, kindergartens, day care centers and home-based learning as necessary institutions offering Pre- Primary education and mention them in the BECF as essential in a stage of child growth in relation to Article 53 (2) of the Constitution.
  - a) Nursery school and day care centers should be registered, licensed and operations inspected by county governments. These facilities shall provide many working parents a place to leave their children in safety





to stay from 6:30 am to 6:30 pm when between 4 months old and about 4 years of age during working days.

b) County governments to finance development of public and community day care centers by providing infrastructure and employment of manpower.

4. **THAT** Kenyan indigenous languages will be discriminatively offered to learners and also foreign languages against Article 27(4) of the Constitution.

a) Students in rural areas should have learning activities using vernacular of their catchment area (mother tongue) in grade 1 to 3 and not those in townships.

b) If foreign languages are to be taught as optional subjects in upper primary. Public schools which depend solely on government will have no teachers since these languages are not taught in primary teacher training colleges, unless primary schools employ private tutors.

c) Other languages apart from Kiswahili and English should be offered to all learners in equal depth of content covering grammar, literature and culture of the ethnic speakers. BECF should be reviewed to have all students in primary schools do a third language selected either from indigenous or foreign languages. Otherwise optional languages should be offered only in secondary schools.

5. **THAT** subject names and sequencing needs to be reorganized in the BECF document as follows—

a) Subjects in senior secondary should be arranged in pathways with tracks similar to the clusters currently used in form 3 and 4 to allow schools offer more than one pathway since all secondary schools in Kenya have teachers who teach a combination of 2 subjects cross cutting the pathways and tracks offered in the 2,6,3,3 curriculum.



b) Number of minimum subjects to be done by a specific pupil should be equal in all the tracks in senior secondary, yet BECF provides —

- i) sports and performing arts – to do a minimum of 5 subjects,
- ii) humanities and languages—minimum of either 5, 6 or 7 subjects,
- iii) pure science - to do a minimum of 6 subjects,
- iv) applied science - to do a minimum of 4 subjects,
- v) technical and engineering - to do a minimum of 7 subjects and
- vi) career and technology studies - to do a minimum of 4 subjects.

Extra subjects give more class work to students yet progression to colleges depends on which learner as the highest scores in Kenya Certificate of Basic Education (KCBE) therefore discriminative.

- c) Integrated science is being taught in junior secondary as a single subject yet in upper primary home science, agriculture and science are separate subjects.
- d) The sports science track needs restructuring to include all sports and games with federations or organizations in Kenya.
- e) Kenyan indigenous and foreign languages should be introduced preferably in junior secondary. It is also easier to train indigenous language teachers e.g. Kamba, Maasai, Borana, Kisii etc. at undergraduate level as one of the teaching subjects in bachelor of education programs either as a major or minor subject to distinguish between teacher who can only teach at junior secondary and those who also teach senior school and even proceed for master's degree.
- f) Some senior secondary subject content is too narrow to be taught for a period of 3 years e.g. martial arts, boxing, dance, theatre, fire fighting and elocution. These proposed subjects need to be merged with others and learners who need practice to perfect their skills can join talent academies.
- g) Otherwise the mean grade criteria of admission should be abolished e.g. C+ as minimum qualification for bachelor's degree admission. Have tertiary colleges





use only the cluster points in required subjects for admission during selection of students. Unless subjects done by all are pick from equivalent weighted groups.

7. **THAT** the subjects proposed to be taught in upper primary, junior and senior secondary should be reorganized and some merged. In the BECF document secondary schools will offer over 85 subjects, which are too many compared with currently less than 25 subjects done in 8.4.4, yet most secondary schools offer less than 15 subjects and schools still have a shortage of teaching staff.
8. **THAT** tertiary colleges need to know the ability of 2,6,3,3 curriculum learners by obtaining curriculum designs or syllabi in all subjects at least 5 years before the first group doing a subject exits grade 12 and are awarded KCBE, to —
  - a) Enable universities reorganize training syllabus in line with their entry behavior and have the syllabi approved by Commission of University Education which is quite a lengthy process.
  - b) Determine duration of degree programs and the required subject clusters for admission during placement of undergraduate courses.
9. **THAT** the KICD should issue curriculum designs or syllabus for grade 4 to 12 before proceeding with further piloting of Basic Education Curriculum.
  - a) The planned pilot program where grade 3 of 2018 cohort is to be used for 8 consecutive years of piloting should be changed; the piloting should be completed in just two years by doing 4 classes each year. To provide space for corrections and publishing of teaching materials.
  - b) Why should KICD stagger piloting of grade 4 to 9 for six years yet they did pre-primary 1 and 2 together with grade 1 to 3 (a total of 5 classes) in less than half a year in 2017.



10. **THAT** the middle school concept plans to joining upper primary with junior secondary will have its main challenge not in building grade 9 class rooms in the existing primary schools but in ensuring the following: -

- a) It does not disadvantage pupils in lower academically performing schools that have inadequate infrastructures.
- b) Principals in these schools may have to be appointed from graduates employed to teach junior secondary section because of their higher educational qualifications yet the bulk of staff will remain those teachers in the primary section who may resist the new management.
- c) Teachers trained in secondary education shall have to be posted to all primary schools (over 25,000 nationally) to teach grade 7, 8 and 9 due to requirements of subject methodology and their specializations.
- d) Some primary schools have no land for expansion to construct the required workshops and laboratories that are necessary in junior secondary education.

11. **THAT** the junior secondary section should be allowed to stand alone so that school managements are free to decide whether to establish junior secondary in the neighborhood of existing primary school or have both junior and senior secondary in the same institutions. While others schools offer only junior secondary especially the current single streamed secondary schools which lack facilities and teaching staff.

12. **THAT** Primary education should have 3 sections as follows —

- i) The lower primary, first 2 years of formal education. Currently pre – primary 1 and 2 in BECF.
  - ii) The middle primary with grade 1, 2 and 3.
  - iii) Then upper primary with grade 4, 5 and 6.
- a) The first two years determine a child's ability to read and write precisely.





- b) Early childhood education trained teachers should not only teach pre – primary 1 and 2 but also teaching in grade 1, 2 and 3; while having an opportunity to be engaged in management as principals or senior teachers in their respective primary schools.

13. **THAT** village polytechnics should be transformed into technical secondary schools to offer career and technology studies track in the BECF since: -

- a) With 100% transition from primary to secondary school policy in place the institutions will be dissolved.
- b) Artisan courses currently offer in village polytechnics will also be taught in secondary schools and students issued with dual certification.

14. **THAT** adult education centres should be recognized as providers of basic education in the BECF, which shall offer single subjects to persons with specific interest providing lifelong learning to citizens who need skills like:-

- a) Language proficiency test in foreign languages like French or Germany, and even working skills in subjects like Accounting or Agriculture etc.
- b) The adult education centres should register learners as private candidates for national examinations, to provide facilities for secondary school leavers who want to do supplementary or special examinations offered by KNEC without having to repeat all the subjects in a regular school.

15. **THAT** the implementation plan requires a two-tier approach to avoid an overlap in joining secondary schools by the pioneering class that completes grade 6 (those currently at grade 3 in 2019) with the last class of 8.4.4 who will be in standard 7 in 2022 then standard 8 in 2023 when the pioneers of 2,6,3,3 will be joining junior secondary at grade 7 in 2023.

- a) To avoid these scenario standard 8 pupils in 2020 to 2023 should join grade 9 instead of form 1 and do Kenya Learners Assessment Evaluation (KALE) 3



enabling them to select the pathways offered in BECF as pioneers in senior secondary. Since current 8.4.4 subjects are still offered in the senior secondary.

b) Then have standard 7 of 2022 do a special KNEC examination and proceed to grade 8 in junior secondary.

c) To allow secondary schools without the ability to immediately construct extra classrooms and other teaching facilities to just provide junior secondary education i.e. grade 7, 8 and 9, then have a national selection based on KALE 3 for learners to joining senior secondary schools to pursue their preferred pathways.

16. **THAT** students exiting grade 9 should have ability slightly above the current form 2 class content of 8.4.4 so that grade 12 can be equivalent to form 6 or any other advanced level secondary education in common wealth countries.

17. **THAT** it is important to have a curriculum equivalent to other East African Community member countries in relation to agreements made by member states and incorporated into the National Curriculum Policy of December 2015 on harmonization of basic education.

18. **THAT** the learners who pass grade 9 (KALE 3) shall qualify for admission into certificate course, avoids a major challenge in the current system where students who score a mean grade of C- at K.C.S.E. qualify for the same certificate and diploma courses in a specific field when admitted into tertiary colleges.

19. **THAT** more than half of the students who have completed form 4 in the last three consecutive years (2016 - 2018) K.C.S.E. have scored grade D and below. To check on this trend is better in the 2,6,3,3 curricula to enroll willing students completing junior secondary for certificate / craft and artisan courses rather than push them through senior secondary for 3 more years to grade 12 where if they score grade D+ or below will join the same craft or artisan courses.





20. **THAT** there will be no national individualized examination at the end of upper primary but random sampling of grade 6 learners to assess their ability and only 30% at the end of junior secondary in grade 9 as a sit in examination with no official certificates to pupils by KNEC up to the end of senior secondary school.

I wish to submit as follows —

- a) Class teacher evaluation may lack fairness due to personal interests, biasness and even pressure by school managements to award students higher scores.
- b) Without uniform national individual examinations, then national and extra county secondary school selection will be replaced by school interviews for admission which will deter national integration.
- c) A National examination should be done at the end of upper primary in grade 6 (KALE 2) which is individualized providing 50% of the score under KNEC supervision, setting and marking. Then merge with teacher's evaluation done by continuous assessment of competencies to determine learner progression.

21. **THAT** every stage (at the end of grade 6, 9 and 12) should be terminal with KNEC certification to all pupils, ensuring equality and credibility of the basic education. Otherwise grade 12 school leavers will be subjected to entrance examinations by specific universities and other colleges before being given admission letters for any courses at tertiary level.

22. **THAT** all secondary schools currently can offer junior secondary subjects comfortably but could lack facilities required to teach subject content for grade 11 and 12. This allows the MoE to maintain the numbers of current form 1 admissions in what will be grade 7 at junior secondary. All secondary schools must maintain their current enhanced enrolment numbers in junior secondary and continue offering more streams (student population) in junior secondary than in the senior secondary section.





23. **THAT** I have delivered hard copies explaining the above issues, by postal services and emails to the Ministry of Education, KICD and several other national offices that guide education policies since mid-2017. In response, I have only received a single acknowledgement letter from the director KICD but the reply given was not satisfactory as it proposed that the issues can be addressed during implementation.


24. **THAT** to the best of my knowledge, the issues in respect of which this petition is made are not pending before any court of law or constitutional or legal body.

**WHEREFORE**, your humble petitioner **PRAYS** that—

- a) The Senate deals with this petition immediately in view of the urgency of the matter and seriousness of the issues presented herein;
- b) The Senate directs the Ministry of Education to convene a national conference open to all members of public for at least three (3) days to receive, discuss and adopt guiding resolutions to improve quality of 2,6,3,3 basic education curriculum.
- c) The Senate directs the Kenya Institute of Curriculum Development to review and edit the BECF document and issue a revised edition that includes all necessary improvements and corrections that will be agreed on in the national conference by June 2019.
- d) The Senate to ensures that a sessional paper on reforming education and training for sustainable development that will be presented by the Ministry of Education in Parliament to actualize the 2,6,3,3 basic education curriculum resolves the challenges addressed in this petition.



**AND YOUR petitioner will ever pray.**

NAME OF PETITIONER	FULL ADDRESS	ID. NUMBER	SIGNATURE
DR. ERIC MUGAMBI KINYUA	P.O.BOX 181 -10406 Timau, Meru. Mobile No. 0738948750 Email: <a href="mailto:mugambiek@tum.ac.ke">mugambiek@tum.ac.ke</a>	12542938	



## **Annex II: Minutes of the Committee Meetings**

### **MINUTES OF THE 13<sup>TH</sup> SITTING OF THE SENATE STANDING COMMITTEE ON EDUCATION HELD ON THURSDAY, 16<sup>TH</sup> MAY, 2019 AT THE SENATORS LOUNGE, MAIN PARLIAMENT BUILDING AT 11:00 AM.**

#### **PRESENT**

- |  |                     |
|--|---------------------|
| 1. The Hon. Sen. (Dr.) Lagat Christopher, MP | <b>-Chairperson</b> |
| 2. The Hon. Sen. Nderitu John Kinyua, MP     | -Member             |
| 3. The Hon. Sen. Gertrude Msuruve, MP        | -Member             |
| 4. The Hon. Sen. (Dr.) Agnes Zani, MP        | -Member             |
| 5. The Hon. Sen. Okongo Omogeni, MP          | -Member             |
| 6.   |                     |

#### **ABSENT WITH APOLOGIES**

- |   |                          |
|---|--------------------------|
| 1. The Hon. Sen. (Prof.) Margaret Kamar, MP | <b>-Vice Chairperson</b> |
| 2. The Hon. Sen. Mary Seneta, MP            | -Member                  |
| 3. The Hon. Sen. (Prof.) Samson Ongeru      | -Member                  |
| 4. The Hon. Sen. Mohamed Yusuf Haji, MP     | -Member                  |

#### **SENATE SECRETARIAT**

- |                       |                   |
|-----------------------|-------------------|
| 1. Mr. Joseph Mwangi  | - Clerk Assistant |
| 2. Mr. Jeremy Chabari | - Legal Counsel   |
| 3. Ms. Wendy Achieng' | - Intern          |

#### **MIN.NO./SEN/EDU/2019/65**

#### **PRELIMINARIES**

The Chairperson called the meeting to order at 11:21a.m and the meeting began with a word of prayer.

#### **MIN.NO./SEN/EDU/2019/66**

#### **ADOPTION OF AGENDA**

The agenda of the meeting was adopted having been proposed by Sen.(Dr.) Agnes Zani and Seconded by Sen. Okongo Omogeni as follows-

#### **AGENDA**

1. Preliminaries
  - a. *Prayer*
2. Adoption of agenda
3. Consideration of Petition on the review of the basic education curriculum framework by Ministry of Education
4. Any other business
5. Date of the next meeting





**MIN.NO./SEN/EDU/2019/67 CONSIDERATION OF PETITION ON  
THE REVIEW OF THE BASIC EDUCATION CURRICULUM  
FRAMEWORK BY MINISTRY OF EDUCATION**

The Chairman invited the secretariat to brief the Members on the Petition.

**Observations:**

- a) The core function of the Kenya Institute of Curriculum Development is to conduct research and develop curricula for all levels of education below the university;
- b) The Commission for University Education is involved in the development of curricula for University Education;
- c) The Technical and Vocational Education and Training Curriculum Development, Assessment and Certification Council is mandated to undertake design and development of curricula for the Technical and Vocational Education and Training institutions' examination, assessment and competence certification;
- d) The Kenya Institute for Public Policy Research and Analysis should be involved in curricula development as it is mandated to improve public policy making for realization of national development goals, through economic forecasting, policy analysis and research, and formulation of medium and long-term strategic perspectives for economic and social development; and
- e) Public participation and taking into consideration the views of the public in decision making is a constitutional requirement for all entities in Kenya and the entities are therefore required to consult all stakeholders and members of the public in the process of development of the curriculum.

**Recommendations:**

Members resolved to invite the following individuals and institutions to provide information-

- a) The petitioner in order to get specific information on the petition;
- b) The Ministry of Education, KNUT and the Kenya Institute of Curriculum Development and to respond to the issues raised in the petition with regard to—
  - a. The Basic Education Curriculum Framework;
  - b. Involvement of stakeholders in the development of the Basic Education Curriculum Framework;
  - c. The process followed in the review and development of the Basic Education Curriculum Framework; and





- d. The procedures to be followed in the review and development of curricula and curriculum support materials as provided under section 29 of the Kenya Institute of Curriculum Development Act, 2013;
- c) The Technical and Vocational Education and Training Curriculum Development, Assessment and Certification Council to inform the Committee on whether the Basic Education Curriculum Framework has addressed Technical and Vocational Education and Training concerns;
- d) The Commission for University Education to inform the Committee on the alignment of the curricula development for university education with the Basic Education Curriculum Framework;
- e) The Kenya Institute for Public Policy Research and Analysis (KIPPRA) to inform the Committee on—
- f) The policy analysis and review of the Basic Education Curriculum Framework; and
- g) Medium and long-term impact of the Basic Education Curriculum Framework on the national social, economic and social development.


**The Committee may also request for the following documents from the Ministry of Education—**

1. The Sessional Paper and Policy on the 2-6-3-3 Basic Education Curriculum;
2. The Basic Education Curriculum Framework on a 2-6-3-3 Competence Based Curriculum; and
3. The Report by the Task Force on the Re-Alignment of the Education Sector to the Constitution of Kenya 2010.

**MIN.NO./SEN/EDU/2019/64 ADJOURNMENT AND DATE OF NEXT MEETING**

There being no other business, the Chairperson adjourned the meeting at 11.57p.m.

The next meeting would be called by notice.

  
 .....

**SIGNED**

**(CHAIRPERSON; SEN. (DR.) CHRISTOPHER LANG'AT ANDREW, M.P.)**

29/05/2019

**DATE.....**



**MINUTES OF THE 17<sup>TH</sup> SITTING OF THE SENATE STANDING  
COMMITTEE ON EDUCATION HELD ON THURSDAY, 4<sup>TH</sup> JULY, 2019  
AT THE SENATE CHAMBERS, MAIN PARLIAMENT BUILDING AT  
11:00 AM.**

**PRESENT**

- |  |                          |
|--|--------------------------|
| 1. The Hon. Sen. (Prof.) Samson Ongeru   | <b>-Member/Ag. Chair</b> |
| 2. The Hon. Sen. Nderitu John Kinyua, MP | -Member                  |
| 3. The Hon. Sen. Gertrude Musuruve, MP   | -Member                  |
| 4. The Hon. Sen. (Dr.) Agnes Zani, MP    | -Member                  |
| 5. The Hon. Sen. Okongo Omogeni, MP      | -Member                  |

**ABSENT WITH APOLOGIES**

- |  |                           |
|--|---------------------------|
| 1. The Hon. Sen. (Dr.) Lagat Christopher, MP | <b>- Chairperson</b>      |
| 2. The Hon. Sen. (Prof.) Margaret Kamar, MP  | <b>- Vice Chairperson</b> |
| 3. The Hon. Sen. Mohamed Yusuf Haji, MP      | - Member                  |
| 4. The Hon. Sen. Mary Seneta, MP             | -Member                   |

**IN ATTENDANCE**

1. The Hon. Sen. Farhiya Ali, MP
2. The Hon. Sen. Johnnes Mwaruma, MP
3. The Hon. Sen. Ali Abdullahi, MP
4. The Hon. Sen. Petronilla Were, MP
5. The Hon. Sen. Paul Wamatangi, MP
6. The Hon. Sen. Samson Cherakey, MP
7. The Hon. Sen. Judith Pareno, MP

**-MEMBERS**

**IN ATTENDANCE**

**-MINISTRY OF EDUCATION/STATE AGENCIES**

- |                            |  |
|----------------------------|--|
| 1. Prof. George Magoha     | - Cabinet Secretary M.O.E              |
| 2. Dr. Belio Kipsang       | - Principal Secretary –Basic Education |
| 3. Mr. David Njengere      | - MOE                                  |
| 4. Dr. Julius Jwan         | -KICD CEO                              |
| 5. Ms. Ruth Mugambi        | - KICD Deputy Director                 |
| 6. Dr. Mercy Karogo        | -Ag. CEO KNEC                          |
| 7. Mr. Peter Okwanyo       | -Ministry of Education                 |
| 8. Mr. Charles Ringera     | -CEO HELB                              |
| 9. Mr. Jerry Bett          | -MOE                                   |
| 10. Mr. Samuel Siringi     | -MOE Communications office             |
| 11. Mr. Jeremiah Munayi    | -MOE                                   |
| 12. Mr. Johnstone Nyanumba | -MOE                                   |
| 13. Mr. Odera S.O          | -COS                                   |
| 14. Mr. Eric Ogur          | -TVET Advisor                          |
| 15. Mr. Paul Kibet         | -DSE-MOE                               |
| 16. Mr. Kobia Wakamau      | -DA VTT                                |
| 17. Dr. Erick Mugambi      | - Petitioner                           |



## **IN ATTENDANCE**

1. Mr. Joseph Mwangi
2. Ms. Marale Sande
3. Mr. Jeremy Chabari
4. Ms. Njeri Manga
5. Ms. Julia Gachoki
6. Mr. Fredrick Ouma
7. Mr. Simon Muinde
8. Ms. Wendy Achieng'
9. Ms. Nancy Ouma

**MIN.NO./SEN/EDU/2019/81**

## **-SENATE SECRETARIAT**

- Clerk Assistant
- Research Officer
- Legal Counsel
- Media Relations officer
- Sergeant At arms
- Sergeant At arms
- Audio Officer
- Intern
- Intern

## **PRELIMINARIES**

The Chairperson called the meeting to order at 11:24 a.m and the meeting began with a word of prayer. The Chairperson requested all Members and Ministry officials to introduce themselves and thereafter stated the purpose of the meeting.

**MIN.NO./SEN/EDU/2019/82**

## **ADOPTION OF AGENDA**

The agenda of the meeting was adopted having been proposed by Sen. Agnes Zani and Seconded by Sen. John Kinyua as follows-

### **AGENDA**

1. Preliminaries
  - a. *Prayer*
  - b. *Introduction*
2. Adoption of agenda
3. **Meeting with the Cabinet Secretary Ministry of Education to discuss supplementary questions on Statements.**
4. **Presentation by the Petitioner on Basic Education Curriculum Framework**
5. Any other business
6. Date of the next meeting

## **MIN.NO./SEN/EDU/2019/83 MEETING WITH THE CABINET SECRETARY MINISTRY OF EDUCATION TO DISCUSS SUPPLEMENTARY QUESTIONS ON STATEMENTS**

The Chairman led the meeting in the question supplementary questions





**MIN.NO./SEN/EDU/2019/84 PRESENTATION BY THE PETITIONER ON  
BASIC EDUCATION CURRICULUM FRAMEWORK**

The Petitioner Dr. Erick Mugambi was given an opportunity to introduce himself and briefly state his concerns:

1. He observed that the implementation of the new Curriculum was hurried; and that sufficient time for preparation had not been sought.
2. He had already sent his concerns to the KICD but no response was given.

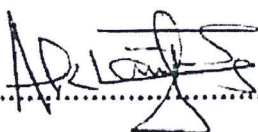
On this matter the Cabinet Secretary responded by indicating that;

1. The matter had already been settled in court and that the judgement would be sent to the Committee.
2. All relevant documentation on the matter would be forwarded to the Committee.

The Chairman also assured the petitioner that since the matter was committed to the Committee, consideration would be made and thereafter determination of the wayforward. A report to that effect would be shared with the Petitioner in due course.

The Cabinet Secretary thanked the Senate for the invitation and assured the Committee that continuous engagement would continue to ensure that the education system was effectively run.

The Chairman also appreciated the Ministry for honoring the invite and requested the KICD to give out more copies of the CBC materials that it had given to some Senators.



.....

**SIGNED**.....

**(CHAIRPERSON; SEN. (DR.) CHRISTOPHER LANG'AT ANDREW, M.P.)**



**MINUTES OF THE 19<sup>th</sup> SITTING OF THE SENATE STANDING COMMITTEE ON EDUCATION HELD ON FRIDAY, 24<sup>th</sup> JULY, 2020 ON ZOOM ONLINE MEETING PLATFORM AT 10:00 AM.**

**PRESENT**

- |  |                           |
|--|---------------------------|
| 1. Hon. Sen. (Dr.) Alice Milgo, MP       | - <b>Chairperson</b>      |
| 2. Hon. Sen. (Dr.) Agnes Zani, CBS, MP   | - <b>Vice Chairperson</b> |
| 3. Hon. Sen. Fred Outa, MP               | - Member                  |
| 4. Hon. Sen. Mwangi Githiomi, MP         | - Member                  |
| 5. Hon. Sen. (Dr.) Gertrude Musuruve, MP | - Member                  |
| 6. Hon. Sen. (Prof.) Imana Malachy Ekal  | - Member                  |

**ABSENT WITH APOLOGIES**

- |   |          |
|---|----------|
| 1. Hon. Sen. (Prof.) Kithure Kindiki, EGH, MP | - Member |
| 2. Hon. Sen. Mary Y. Senata                   | - Member |
| 3. Hon. Sen. Iman Falhada Dekow, MP           | - Member |

**SENATE SECRETARIAT**

- |                       |                          |
|-----------------------|--------------------------|
| 1. Humphrey Ringera   | - Research Officer/Clerk |
| 2. Caroline Cheruiyot | - Legal Counsel          |
| 3. Winnie Atieno      | - Audio Officer          |

**MIN. NO./SEN/EDU/126/2020 PRELIMINARIES**

The Chairperson called the meeting to order at 1010hrs and the proceedings were opened with a word of prayer.

**MIN. NO./SEN/EDU/127/2020 ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted having been proposed by Sen. (Dr.) Zani, MP and seconded by Sen. Outa, MP as follows:

1. Preliminaries
2. Adoption of agenda
3. Confirmation of the Minutes of the Previous Meeting
4. Matters Arising
5. Consideration of the Petition by Dr. Eric Mugambi in the Review of the Basic Education Curriculum Framework
6. Any other business
7. Adjournment/Date of the next meeting



**MIN. NO./SEN/EDU/130/2020 THE PETITION BY DR. ERIC MUGAMBI ON THE REVIEW OF THE BASIC EDUCATION CURRICULUM**

1. The Committee was informed that the Petition by Dr. Eric Mugambi on the review of the Basic Education Curriculum Framework (BECF) launched in 2017 as a guide on a 2-6-3-3 Competence Based Curriculum Framework to replace 8-4-4 was presented at the Senate on 27<sup>th</sup> March, 2019.
2. The Petitioner had requested the Senate to-
  - a. deal with the petition immediately in view of the urgency of the matters and seriousness of the issues presented;
  - b. direct the Ministry of Education to convene a national conference open to the public to receive, discuss and adopt guiding resolutions to improve quality of 2-6-3-3 Basic Education Curriculum;
  - c. direct the Kenya Institute of Curriculum Development to review and edit the BECF document and issue a revised edition that includes all necessary improvements and corrections that will be agreed on in the national conference by June 2019; and
  - d. direct that a sessional paper on reforming education and training for sustainable development be presented by the Ministry of Education to actualize the 2-6-3-3 basic education curriculum to resolve the challenges addressed in the petition.
3. The Committee was informed that the Petitioner and Cabinet Secretary, Ministry of Education were invited for a meeting to make presentations on the petition and provide responses thereto respectively.
4. The Committee observed that during the meeting held on 4<sup>th</sup> July, 2019, the Ministry of Education responded to all issues raised by the petition. However, some of the issues raised by the petitioner had now been overtaken by events.
5. The Committee further observed that other issues raised in the petition had been implemented and the status of their implementation will be determined by the inquiry launched by the Committee on the Early Childhood Development Education (ECDE) landscape in the country.

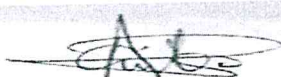




6. The Committee resolved to finalize the report on the petition and to continuously engage the Ministry of Education and the Kenya Institute of Curriculum Development on the implementation of the Competency Based Curriculum in Kenya.

**MIN. NO./SEN/EDU/132/2020 ADJOURNMENT AND DATE OF NEXT MEETING**

There being no other business, the meeting was adjourned at 1200noon. The next meeting would be by notice.



**SIGNED.....**

**(CHAIRPERSON: SEN. (DR.) ALICE MILGO CHEPKORIR, M.P.)**

**DATE.....27/07/2020.....**





**MINUTES OF THE 22<sup>nd</sup> SITTING OF THE SENATE STANDING  
COMMITTEE ON EDUCATION HELD ON THURSDAY, 30<sup>th</sup> JULY, 2020  
ON ZOOM ONLINE MEETING PLATFORM AT 1000HRS.**

**PRESENT**

- |  |                           |
|--|---------------------------|
| 1. Hon. Sen. (Dr.) Alice Milgo, MP       | - <b>Chairperson</b>      |
| 2. Hon. Sen. (Dr.) Agnes Zani, CBS, MP   | - <b>Vice Chairperson</b> |
| 3. Hon. Sen. Fred Outa, MP               | - Member                  |
| 4. Hon. Sen. (Dr.) Gertrude Musuruve, MP | - Member                  |
| 5. Hon. Sen. (Prof.) Imana Malachy Ekal  | - Member                  |

**ABSENT WITH APOLOGIES**

- |   |          |
|---|----------|
| 4. Hon. Sen. (Prof.) Kithure Kindiki, EGH, MP | - Member |
| 5. Hon. Sen. Mwangi Githiomi, MP              | - Member |
| 6. Hon. Sen. Mary Y. Seneta                   | - Member |
| 7. Hon. Sen. Iman Falhada Dekow, MP           | - Member |

**SENATE SECRETARIAT**

- |                       |                          |
|-----------------------|--------------------------|
| a. Humphrey Ringera   | - Research Officer/Clerk |
| b. Caroline Cheruiyot | - Legal Counsel          |
| c. Winnie Atieno      | - Audio Officer          |

**MIN. NO./SEN/EDU/148/2020 PRELIMINARIES**

The Chairperson called the meeting to order at 1010hrs and the proceedings were opened with a word of prayer.

**MIN. NO./SEN/EDU/149/2020 ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted having been proposed by Sen. (Dr.) Zani, MP and seconded by Sen. (Dr.) Musuruve, MP as follows:

8. Preliminaries
9. Adoption of agenda
10. Confirmation of the Minutes of the Previous Meeting
11. Matters Arising
12. Adoption of the Committee Report on the Petition on review of the Basic Education Curriculum Framework (BECF);
13. Meeting with Sen. Isaack Mwaura, on the Proposed Universities (Amendment) Bill, 2020
14. Statement by Sen. (Dr.) Getrude Musuruve on the International Parliamentary Network for Education
15. Any other business
16. Adjournment/Date of the next meeting



**MIN. NO./SEN/EDU/152/202 ADOPTION OF THE COMMITTEE  
REPORT ON THE PETITION ON  
REVIEW OF THE BASIC EDUCATION  
CURRICULUM FRAMEWORK (BECF);**

The Committee considered the draft report on the Petition on review of the Basic Education Curriculum Framework (BECF) and adopted it.

**MIN.NO./SEN/EDU/156/2020 ADJOURNMENT AND DATE OF THE  
NEXT MEETING**

There being no other business, the meeting was adjourned at 1115hrs. The next meeting would be by notice.



**SIGNED.....**

**(CHAIRPERSON: SEN. (DR.) ALICE MILGO CHEPKORIR, M.P.)**

**DATE.....03/08/2020.....**









related sectors to oversee the changes for a period of five (5) years, to ensure several important issues are achieved including and not limited to:

- (b) The universities offering bachelor of education programs need to incorporate the new changes introduced by 2, 6, 3, 3 in their training soonest possible.
- (c) Those extra facilities needed for senior secondary schools are provided by the government on time.
- (d) Compare the KICD working documents with others that are proposed by members of the public like document 1, 2 and 3 quoted in the Petition for discussion and if found viable as well as acceptable to be adopted during the initial stage of implementing 2, 6, 3, 3 basic education curriculum.
- (e) The publishers are guided to develop and deliver appropriate reading and teaching material as per the new subject syllabi using Kenyan content.
- (f) Funding from different sources be well coordinated e.g county governments can support development of indigenous languages resource centers and technical institutes.



- (g) Polytechnics and vocational training to be properly linked to the basic education progression structure through technical vocational education and training (TVET) without having to transfer their training programs into ordinary secondary schools but by providing students with path ways from artisan to certificate then diploma and degree courses with their selection for admission done by Kenya University and Colleges Central Placement Services (KUCCPS), also have artisan and certificate courses being financed to be free in a similar way to the free secondary education.”
2. The petition is supported by affidavit of Eric Mugambi sworn on 19<sup>th</sup> September, 2017 and further Affidavits sworn on 14<sup>th</sup> October, 2017 and 6<sup>th</sup> November, 2017 together with annexures thereto. The deponent is also the Petitioner herein.
  3. The Petitioner’s case is that the implementation period proposed to review basic education over a six year period starting in January 2018 with pre and lower primary schooling then move upwards to grade 12 in 2023 when the first groups does Kenya Certificate of Basic Education (KCBE) is not the best way possible since better implementation can be achieved in four years only, for all the classes



from grade 1 to 12 of the proposed 2,6,3,3 basic education systems on a national scale if KICD allows a multiple level implementation strategy which provides better economies of scale to the country. The Petitioner's case is that a six year implementation strategy shall cause a crisis in our schools by admitting two different cohorts of class years in 2020 and 2021 when grade 6 and standard 8 students will need admission into secondary education. This could likely lead to pairing of primary schools with neighbouring secondary schools to provide the required twelve (12) class rooms needed to host the proposed new curriculum which shall lack synergy in the teaching fraternity. The Petitioner annexed and marked "EM-2" a copy of Document 1n comparison of implementation schedules. The Petitioner's case is that subject syllabi documents for all the classes should be provided by KICD from grade 1 to 12 before starting implementation of 2,6,3,3 basic education curriculum since knowledge or subject content shall not be changing but only teaching and evaluation methodology or pedagogy will be changed. Issuing the complete syllabus document will allow fair distribution of learning content across the twelve years of schooling without running into a situation where secondary education is over loaded with content as it happened with 8.4.4 during its





introduction before several reviews where done by Kenya institute of education (KIE) the predecessor to KICD. The Petitioner's case is that even to date most of standard seven and eight syllabi in all the subjects have learning content repeated in secondary education in the same depth of concepts taught. The Petitioner's case is that the decision to eliminate individual student assessment using a national examination at the end of upper primary (grade 6) by Kenya National Examination council (KNEC) should be receded. Use of class teachers in formative assessment to award marks has a likelihood of being biased, and it therefore needs to be weighted by adding at least a 50% score from a national examination done by each individual student which is set, supervised and marked by KNEC. The learners should then be issued with a common transcript merging both continuous assessment and end of level national examination as proposed by KICD for grade 12. This idea should be replicated in grade 6 and 9 to provide a fair selection criteria for learners joining junior secondary and technical, vocational education and training (TVET) career path ways. The Petitioner avers if no uniform national grading system for students is available to provide a basis for selection into junior secondary it is the parent or guardian who shall solely determine which secondary school





his child attends. This will disadvantage the less privileged in society who prefer low cost schools most of which are poorly equipped and have dismal academic performance. This will lead to social and economic stratification because most students will remain in their neighbourhood schools, which will be a deterrent to national integration and against the Kenyan constitution. The Petitioner further avers that the proposed number of learning areas or subjects to be taught in the new basic education curriculum have not been properly considered. The course content taught in primary schools will increase greatly with the number of subject rising from five (5) to ten (10) therefore reducing leaning time. Also in senior secondary school different path ways allow learners to do different number of total subjects during the final national examination KCBE. Therefore these students will have different number of subjects used to determine their final mean grade which is discriminative. Also subjects don't have comparably equal weight and require different durations of student teacher contact hours. Several subjects offered at senior secondary level can only be taught in very few schools with the required facilities and trained teachers in these subject areas, which is discriminative to students who cannot get admission into these specific schools. It is the



Petitioner's case that Senior secondary subjects should be arranged in clusters as done currently in form four (4) examinations to allow a school offer more than one pathway, while depth of subject content should be nearly equivalent in a given category so that learners choosing different pathways can equally qualify for tertiary education without being limited into narrow career opportunities and economic activities. All senior secondary schools need to have a national admission of students with both boarding and day scholars at grade 10 to ensure fair and equal opportunity to all children and a stronger sense of citizenship. Further Subjects offered in different path ways should have near equal weight so that admission into universities and other colleges can retain the cluster subjects system of having a common cut off point, like C+ is currently used for all university admissions. Otherwise learners scoring grade A in different subjects like Boxing, Geography, German, Firefighting, Photography, Biology etc. cannot be rated as having equally qualified in their studies when seeking admission to joining equivalent courses in tertiary colleges to avoid learners being subjected to do pre university programmes to meet minimum entry requirements for admission. The Petitioner avers that most new subjects introduced are already existing certificate and





diploma courses offered in technical institutes and polytechnics where they are examined by KNEC; this shall course duplication of roles between ordinary schools and TVET institutions. Other subjects are being proposed to be taught while learners have not received adequate pre requisite knowledge required at entry level, especially those currently offered has diploma courses to be introduced in senior secondary schools. The Petitioner avers that Indigenous and foreign languages should be introduced at the same level, preferably in grade 7 which provides an extra 2 years for what is currently taught in French, German and Arabic in the existing 8.4.4 secondary school syllabus. Introduction of mother tongue in lower primary will affect negatively the learner's ability to master Kiswahili and English phonetics due to interferences of this third language which children will have grown speaking at home and as a language of instruction by many adults in their surrounding hence gaining greater preference.

### **The Responses**

4. The petition is opposed by both Respondents. The 1<sup>st</sup> Respondent filed a Replying Affidavit deponed to by Dr. Belio Kipsang on 12<sup>th</sup> October, 2017. The deponent states that he is the Principal Secretary in the





Ministry of Education, State Department of Basic Education. The 1<sup>st</sup> Respondent's case is that the Constitution 2010 and Vision 2030 Blueprint necessitated the re-alignment of the education sector to provide quality education and relevant training to respond to growing personal, social, technological and economic demands. That the implementation of the planned changes in the education sector commenced way back in 2011 as is evident in annexure EM-5b -(report of the task force on re-alignment of the education sector to the constitution 2010 ) of the Petitioners' affidavit in support of his Notice of Motion. The 1<sup>st</sup> Respondent states that in 2014 the Government embarked on a consultative process of preparing a policy framework for curriculum review that culminated in the National Curriculum Policy, a copy of which was annexed and marked 'BK 1' to the replying affidavit. The 2<sup>nd</sup> Respondent herein being the institution statutorily mandated to develop the curriculum in turn developed a basic education curriculum framework annexed by the Petitioner annexure 'EM5 a'. The conference was attended by various stakeholders including the Petitioner.. The basic education curriculum framework was validated at a National Conference on curriculum reform on 30<sup>th</sup> January, 2017 at KICC.



During the conference a plenary discussion was undertaken where the Petitioner made his contribution.

5. The 2<sup>nd</sup> Respondent opposed the petition vide a Replying Affidavit sworn by Dr. Julius Ouma Jwan on 18<sup>th</sup> October, 2017. The 2<sup>nd</sup> Respondent's case is that KCID is a statutory corporation established pursuant to the provisions of the Kenya Institute of Curriculum Development Act, No. 4 of 2013 ( a successor of Kenya Institute of Education which existed under the Education Act Cap 211 since 1968) mandated to advise the Government on matters pertaining to curriculum development, implement the policies relating to curriculum development in basic and tertiary education and training and develop, review, vet and approve curricula and curriculum support materials for basic education among other levels. Subsequent to the official launch of the Kenya Vision 2030 in July 2008, which identified education and training as the vehicle that will drive Kenya into becoming a middle-income economy and the Promulgation of the Constitution of Kenya in August 2010, which granted the right to free and compulsory basic education to every child, the Government found it necessary to align the education sector with the Constitution and the Vision 2030 blue print in order to ensure that the education system





addressed itself to the societal needs. Towards this end the Government appointed a task force on alignment of the education sector with the aim of making it globally competitive, and capable of supporting Kenya's sustainable development; the Taskforce identified various gaps which needed to be fixed. The task force prepared a report annexed to be said replying affidavit as JOJ-1. That this was followed by Summative Evaluation of both the primary and secondary education in which a cross-section survey design involving local educational stake holders who included the school head teachers, school teachers, pupils, parents, education field officers, deans of curriculum, faith based leaders, prominent educationists and school management committee members were involved. The evaluation focused on the achievement of the objectives, relevance of the existing curriculum, adequacy and quality of resources for effective curriculum implementation inter alia and benchmarked the Kenyan system with Malaysia and South Korea for best practices. The Report observed that the education system in Malaysia and South Korea has played a pivotal role in social, economic and technological development in giving every citizen a chance to be productive and contribute to the countries' well-being. The report further observed that the existing curriculum was





knowledge based which keeps both the teacher and the learner focused on passing of examinations but fails to enhance the skills and competencies of the learners. In conclusion, the report recommended review of the curricula that equipped the learners with the necessary competencies to meet the aspirations of Vision 2030. The said reports were annexed as copies marked **“JOJ-2.”** In light of the evaluation Reports, the 2<sup>nd</sup> Respondent embarked on its mandate to review the current curriculum by inviting all the relevant stakeholders in the involvement of the conceptualization and policy formulation and by the **“Daily Nation Notice dated 18<sup>th</sup> December, 2013”** the 2<sup>nd</sup> Respondent invited public participation which is a key tenet in the National Values and Principles of Governance stipulated in Article 10 of the Constitution. By the consultative meeting with County Executive Committee Members in charge of Education on curriculum reforms held in March 2016, it was resolved that Needs Assessment be carried out. Annexure and marked **“JOJ-4”** are copies of the Reports to broadly deal with the challenges of the current curriculum. The 2<sup>nd</sup> Respondent also carried out needs assessment on basic education by stakeholders and it identified various gaps in the existing curriculum that required to be addressed in order to change the system from being



examination-oriented and base it on individual learner's potential and competencies. Annexed and marked "JOJ-5" is a copy of the summarized Needs Assessment Report. In response to the Applicant's/ Petitioner's allegations, the 2<sup>nd</sup> Respondent confirms that several consultative forums, trainings, seminars, validation Workshops and meetings to develop curriculum support materials were carried out involving all the relevant stakeholders in good faith and in the intention of implementing research based curricula and curriculum support materials responsive to the needs of the Kenyan society. (Annexed and marked "JOJ-6" are copies of attendance sheets and reports evidencing the same). The 2<sup>nd</sup> Respondent avers that the Petitioner in abuse of the court process and in bad faith has failed to disclose to this court of his material involvement and attendance to the National Conference on the Validation of the Basic Education Curriculum Framework held on the **30<sup>th</sup> January, 2017** involving all stakeholders who validated the framework and gave a green light for implementation. The 2<sup>nd</sup> Petitioner annexed and marked "JOJ-7" copies of the attendance sheets and Report evidencing the Petitioner's views. It is the 2<sup>nd</sup> Respondent's case that the Petitioner has had several opportunities to discuss with the 2<sup>nd</sup> Respondent and offer his





suggestions and reports and further attended the several follow up conferences held in the finalization of the curriculum policy before its piloting programme that commenced in May 2017 involving 470 schools (10 schools per county), 2000 teachers (who have been trained) and 40,000 students in the 47 counties. The 2<sup>nd</sup> Respondent states that indeed by the Stakeholders Consultations held in July 2015 the curriculum reform policy was discussed in depth with guiding timelines created in the preliminary stage to guide all the involved personnel and with the United Nations representatives to enlightening the members on the international curricula standards. By the Report dated 4<sup>th</sup> December, 2015 both the 1<sup>st</sup> and 2<sup>nd</sup> Respondents deliberated on the best way forward in aligning the Education Curriculum to address the aspirations of the Constitution and Vision 2030. The Report incorporated the views of the Parliamentary Committee on Education, Research and Training and broadly put into perspective the current situation of Kenya's curriculum highlighting the mismatch between the qualifications that students are expected to have in the job market and what the schools prepare them to do. It is the 2<sup>nd</sup> Respondent's case that Development of the Basic Education Curriculum Framework was developed with extensive consultations





with all stakeholders in very many meetings. The content also went through the Subject Panels, the Course panels, the National Steering Committee and the Academic Committee. The process culminated in the National Conference on Curriculum Reform held at the KICC on 30<sup>th</sup> March, 2016. The conference involved a question and answer session involving the most common challenges of the current knowledge based curriculum *vis a vis* the competency based curriculum. The stakeholders were also advised to send any further input to KICD via an email account, [memoranda@kicd.ac.ke](mailto:memoranda@kicd.ac.ke) designated for that purpose. A report was annexed The 2<sup>nd</sup> Respondent alleges that it has made several updates published to the members of public enlightening them of the Curriculum Development Process and the progress made and further has welcomed the participation of the public and their involvement before and after the piloting period which the Petitioner has failed and neglected to do. The 2<sup>nd</sup> Respondent as per Section 17 of the Kenya Institute of Curriculum Development Act, No. 4 of 2013 has course panels and subject panels comprised of experienced, informed and qualified regional representatives mandated to formulate the best modules which are thereafter reviewed and implemented by the Academic committee and



based on their findings the Pilot programme in all 47 Counties of Kenya was rolled out in May 2017 for Early Years Education. It is therefore the 2<sup>nd</sup> Respondent's statutory mandate to spear-head the curriculum development in the global set standards and in appreciation of the principle of separation of powers the duty of the Courts is to confirm that sufficient opportunities to participate was given to stakeholders and the members of public and not micromanage the Curriculum Development process which is highly technical. That in preparation for roll out of the new curriculum for Early Years Education (Pre-primary 1 & 2, Grade 1, 2 & 3) in all schools KICD has developed curriculum support materials through extensive stakeholder participation. Annexed hereto and marked "JOJ-12" are copies of the attendance sheets and a copy of the website page for KICD where the documents have been availed for public access. That in response to the Petitioner's averments that the curriculum review fails to ensure equality and sense of nationalism, the 2<sup>nd</sup> Respondent has held several consultative meetings with different agencies including; the ministry of sports, culture and art, faith based communities, the special needs groups, the university deans of education, practicing teachers and principals of teachers' colleges. The 2<sup>nd</sup> Respondent in appreciation of





the recommendations of the public in regard to the inadequate exposure and systems in place to offer financial literacy education in basic education engaged its members in a bench marking tour to Canada and Netherlands with the aim of implementing a wholesome curriculum. The 2<sup>nd</sup> Respondent's case is that all along the 2<sup>nd</sup> Respondent has been eager and willing to attend conferences and seminars organized by different stakeholders in a bid to ensure maximum awareness to the public and of key importance trained the teachers who will play a major role in implementation of the curriculum. It is the 2<sup>nd</sup> Respondent's case that the prayers in the Petition are untenable in light of the fact that the piloting programme is already ongoing country wide, the public resources utilized to make the curriculum a reality and the transition period involved to ensure the best curriculum is adopted.

6. The 2<sup>nd</sup> Respondent as per Kenya Institute of Curriculum Development Act, No. 4 of 2013 has already established a **36 member National Steering Committee on Curriculum Reforms** mandated to oversee the activities of the Technical Committee and Working Committees by:



6  
1  
1



- (a) Guiding the formulation of relevant policies to facilitate the process of curriculum development, implementation and assessment of the reformed curriculum
  - (b) Guiding the development of comprehensive frameworks and strategies for efficient and effective supervision and evaluation of the reformed curriculum for various levels of education and training
  - (c) Assuring provision of adequate infrastructure and teaching and learning resources required for the reformed curriculum
  - (d) Establishing linkages with partners to ensure adequate funding for the various stages of the curriculum reform process i.e. development, teacher orientation and in-servicing, materials evaluation and provision to schools, monitoring and evaluation of implementation.
7. In response to the Petitioner's allegations that the proposed curriculum fails to ensure fair and equal opportunity to children, the 2<sup>nd</sup> Respondent states that several reports have established that indeed different children have different capabilities which have often led to different stakeholders



promoting exam cheating to ensure all the children are able to fit in the knowledge based curriculum objectives. And in response to the Petitioner's allegations that the introduction of mother tongue in lower primary will affect negatively the learner's ability, the 2<sup>nd</sup> Respondent indicates that as per Primary school Syllabus Volume One the Mother Tongue has always been part of the Kenyan Education System and the same is in realization of Articles 11 and 44 of the Constitution. The Petitioner's prayer for convening of the National Conferences and the tabling of the syllabi documents have long been overtaken by events as the conferences were held on 30<sup>th</sup> March, 2016 and 30<sup>th</sup> January, 2017 necessitating the commencement of the Pilot programme in May 2017 and consequently seminars have been held in the finalization of the curriculum reports. The 2<sup>nd</sup> Respondent in regard to the Prayer sought herein states that the Petitioner has failed to meet the set threshold for grant of the prayer sought and further invites this Court to appreciate the risk and prejudice the children will suffer having already been engaged and exposed to the Pilot Programme which has been well



appreciated and received good reports worldwide. The 2<sup>nd</sup> Respondent urge the court to dismiss the petition herein with costs.

### **Submissions and Determination**

6. Parties filed submissions which I have carefully considered. In my view following issues should be determined in this petition.
  - (i) Whether the Petitioner was given a chance to participate in new curriculum development.
  - (ii) Whether the Petitioner has suffered any constitutional violations which can be remedied vide a constitutional petition.
7. On the first issue the Petitioner admits that he fully participated in the process which developed the new education curriculum. The Petitioner himself attended several stakeholder consultative forums, training, seminars and validation workshops and meetings to develop curriculum. Specifically the Petitioner attached the validation forum hold on 30<sup>th</sup> January, 2017 (see Annexure "JOJ-7" in Replying Affidavit of Julius Ouma Jwan).
8. The 1<sup>st</sup> Respondent has provided detailed account of the background of the curriculum change, and every stage and process of change is shown to have been extremely participatory. That the Petitioner would not be





100% satisfied is understandable. No two people, leave alone an entire country, can agree 100% on all issues laid on a table. What is to be noted is that the curriculum herein is meant for the whole country, and not just a section thereof or a few people. It is also noteworthy that some of the changes proposed will take place gradually. The Petitioner is one in over 40 million Kenyans who is not satisfied with the proposed changes or their implementation. Still this court must hear the Petitioner, and if the Petitioner establishes a right which is protected by the constitution this court must uphold that. However, on the first issue this court is satisfied that the Petitioner was given an opportunity to participate in the proposed changes and that indeed the Petitioner did that and made valuable contribution to the process.

9. The second issue to determine is whether or not the Petitioner has established a threshold for a remedy under the constitution. The principle of constitutional threshold is resorted to so as to discourage busybodies from seeking constitutional remedies. The basis is that a party who seeks constitutional remedy is obligated to show strongly that a right or fundamental freedom has been violated or is threatened with violation. This principle was established in the locus classic case



of *Anarita Karimi Njeru vs. The Republic* [197-1980] 1LLR 1272 where the court stated as follows:

“We would however again stress that if a person seeking redress from the High Court on a matter which invokes a reference to the Constitution, it is important (only to ensure that justice is done to his case) that he should set out with a reasonable degree of precision of which he complains of, the provisions said to be infringed, and the manner in which they are alleged to be infringed.”

10. The Court of Appeal reaffirmed the *Anarita* threshold principle in the case of *Mumo Matemo vs. Trusted Society of Human Rights Alliance and 5 others* where it stated as follows;

“We wish to reaffirm the principle on this question in *Anarita Njeru* (Supra). In view of this we hold that the Petition before the High Court did not meet the threshold established in that case.

It is our finding that the Petition before the High Court was not pleaded with precision as required in constitutional petitions. Having reviewed the Petition and Supporting Affidavit we have concluded that did not provide adequate particulars of the claims relating to the alleged violations of the Constitution of Kenya and the Ethics and Anti-Corruption Commission Act. Accordingly the Petition did



not meet the standards enunciated in the Anarita Karimi Njeru case.”

11. I have considered the entire petition herein. The Petitioner has not identified precisely any rights that have been violated or are likely to be violated by the Respondent. In fact, there have been no specific Articles of the constitution which the Petitioner alleges to have been, or is likely to be violated. In my view the failure to adopt the opinion of the Petitioner in itself does not raise a constitutional issue capable of a redress before a constitutional court. The Petitioner should not be allowed to force his views through this court. The Petitioner has not shown which of his rights are violated or will be violated. Neither has the Petitioner pleaded that he brought this action on behalf of some people or children whose rights or fundamental freedoms have been, or are likely to be violated.
12. Before ending this Judgment this court has taken judicial notice that the implementation of the new education curriculum has been delayed for a further one (1) year to enable outstanding issues to be thrussed out. The Petitioner still has a window of time to persuade the Respondents to adopt his views or his concerns before the full implementation of the new curriculum begins.

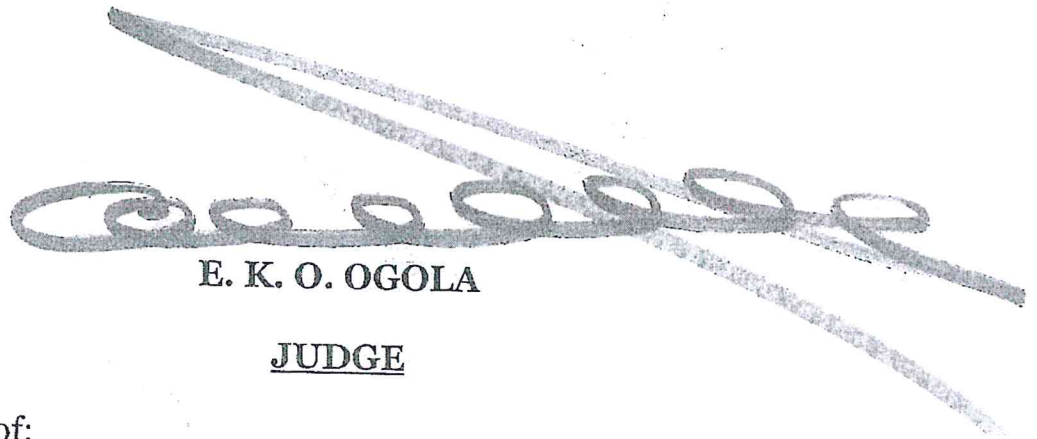




13. For the reasons above the petition herein is dismissed.
14. However, the court declines to make the Petitioner suffer the costs of the petition. This is so because parties should not be discouraged from coming to court due to high costs of litigation. I therefore order parties to bear own costs of the petition.

That is the Judgment of the court.

**Dated, Signed and Delivered in Mombasa this .....9th day of April,  
2018.**



**E. K. O. OGOLA**

**JUDGE**

In the presence of:

M. Odongo h.b. wafula for 2nd Respondent.

