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MEMORANDUM

Submitted to the Presidential Working Party on Education Reforms

Education justice is what keeps us awake deep into the night

1. Introduction

Usawa Agenda is a not-for-profit organization registered and working in Kenya to promote education justice[1] for every child. This is a vision that Usawa, which previously existed as the Uwezo program, has pursued since its inception in 2009. The name 'Usawa' is Swahili for 'Equality'. The choice of the name at the point of transforming into a full-fledged organization was informed by our appreciation of the prevalent inequalities in education, and the urgent need to remedy the situation. The name underlies our strong conviction that we can enable every child to access and benefit from quality education. Our commitment to contributing to education justice is informed by the fact that formal education plays a pivotal role in social mobility, and the danger that education injustice may potentially make quality education heritable, thereby widening and entrenching social inequities[2][3], with the attendant national and global development and social stability risks[4].

We believe in the primacy of rigorous evidence and empirical data in driving the desired change. So, we regularly collect and curate large volumes of data and stories from all over Kenya, and deploy them through public, policy, and community engagement in order to change minds, hearts, and behaviors. We do this by leveraging partnerships with individuals and organizations (state and non-state). Working with these actors, and armed with rigorous research evidence, we have contributed to changing the narrative about basic education in Kenya from focusing on school attendance, to learning outcomes. This change has been born out of consistent evidence-based engagement with key actors in the education space.

As an organization, we look beyond learning outcomes and envision a world where every child benefits from quality education. This vision underlies our commitment to the promotion of education justice for every child in Kenya through systems change. A review of the terms of reference of the Presidential Working Party on Education Reforms, reveals that its mission is to recommend systemic changes that will deliver a more equitable and just education system. We therefore appreciate the invitation to contribute to this endeavour. It is critical in the achievement of the national aspiration, embodied in our constitution, of giving every Kenyan child just access to quality education.

2. Our Responses to the TORs for the PWPER

This memorandum focuses on the basic education sub-sector, which is the area where we have empirical evidence on the basis of which we make the recommendations for the Working Party's consideration. Still under the basic education TORs, we respond to specific ones as indicated below, bearing in mind our fidelity to evidence-based decision-making.

a) To cause and undertake summative evaluation of Kenya competency-based curriculum

Not responded to in this memorandum.

b) To assess and recommend an appropriate structure to implement the competency-based curriculum

1 A school system is just if it is capable of compensating for the impact of the social background of learners on their academic results. https://www.businessknowledgetoday.com/educational-justice/

2 Manyasa, E. 2015. Schooling without learning: the long-term implications of free primary education for income and welfare inequalities in Kenya, in Aworti, N. and Musahara, H. (Eds.). Implementation of Millennium Development Goals: Progresses and Challenges in some African Countries. Addis Ababa: OSSREA.

3 McKnight, A. 2015. Downward mobility, opportunity hoarding and the 'glass floor', Centre for Analysis of Social Exclusion (CASE). London School of Economics.

4 Piketty, T. 2014. Capital in the twenty first century. London: The Belknap Press of Harvard University Press.

Status

There is ongoing robust discussion on how to proceed with respect to the implementation of CBC. Multiple views have been expressed. They include scrapping CBC, implementing CBC in the current 8-4-4 system, domiciling junior secondary in primary school, and implementing a hybrid model where some junior secondary school learners join secondary schools while others learn in primary schools.

It is our considered view that scrapping CBC should be out of question for obvious reasons, including the fact that it is helping us to refocus our education system away from the industrial-scale production of manpower model that has failed to meet our national aspirations. For the last years for instance, at least 60% of the form four students have been scoring mean grade D+ and below. In march this year 46,000 learners cored mean grade E. These young Kenyans are not provided alternative paths to proceed in life by the current curriculum. But CBC will provide them with paths forward.

Implementing a hybrid system is fraught with challenges around placement of learners and raises serious questions of educational justice, since it is likely to herald mad scramble for secondary school opportunities. Both implementing CBC in the current 8-4-4 system and domiciling junior secondary in primary school have the same positive attribute – they can avert the calamitous strain that could arise from the impending double transitions to secondary school. Thus increasingly, they are becoming popular proposals. They, however, have two debilitating limitations: primary schools lack some critical infrastructure – laboratories in particular; and they lack staff with the requisite content mastery to teach junior secondary.

The issue of lack of content mastery affects both primary and secondary schools. There are real knowledge gaps between what some of the teachers know and what the CBC demands of them. On the primary side, some teachers admit to be out of their depth with some of the content in grades five and six. This means that deploying them to teach grade seven and higher is akin to asking learners to tutor fellow learners. In the secondary section, there is no teacher trained to teach integrated science. Secondary school teachers are either trained to teach physics & biology; physics & chemistry; physics & mathematics or biology and chemistry. Integrated science has components of physics, biology and chemistry.

Recommendations

- Implement the CBC in the proposed 2:6:6:3 structure.
- Place all junior secondary learners in sub-county schools and form ones in all the other categories of secondary schools: This is unpopular, but necessary. First, it will enable most grade seven learners to attend schools closer to their homes, and most of them to commute, thus lowering the overall cost of the transition. Secondly, it enables us to do away with the forthcoming KPSEA, save the country money and the children the unnecessary examinations agony, which CBC was meant to eliminate in the first place. Thirdly, it enables the country to start separating senior and junior secondary schools, since they require different levels of facilities. Finally, it helps to separate the generally young junior secondary learners from the more mature senior secondary ones and mitigate the risk of abuse inherent in their co-existence, and which many parents are worried about.
- Recruit the promised 58,000 teachers deliberately for middle school – grades four to nine and do so immediately. Use the current window to January 23rd, 2023 when schools reopen to take the new teachers through intensive training on middle school content. The in-service teachers already trained on grades four to six content should also be taken through this training over the forthcoming long vacation to enhance their capacities. The training should include creating and deployment of teachers for integrated science to our sub-county schools.
- Urgently complete the costed implementation plan of the CBC to help allocate the costs among stakeholders and design the support system for children whose parents may not be able to contribute financially.

a) To study all laws governing the basic education subsector and make recommendations for review of these legislations with a view to addressing duplication, ambiguities, efficiency constraints and improving linkages

Status

Several laws have direct impact on the functioning of the basic education sector. The main one is the Constitution, which provides for every child's right to free and compulsory basic education, has devolved some aspects of basic education (ECDE), and created the TSC as an independent constitutional commission. The other important laws that we focus on here are the Basic Education Act 2013 and the TSC Act. The Basic Education Act has provided for the structures that are supposed to run the basic education sector and assigned roles to various actors. The main weakness in this Act is the weak roles assigned to parents, which has disempowered them and exposed them to exploitation by some corrupt school heads. The law is also not fully implemented. For example, the National Education Board, mandated by the Act to advise the CS for Education is not established, leaving CSs to run the sector like their private business.

The Constitution devolved ECDE to the counties and retained infrastructure development with the national government. Keeping school infrastructure development under the national government has three major limitations:

1) It has contributed to inequity in the distribution of infrastructure development funds with some regions benefiting more than others;

2) It has empowered the CS over the MPs, who have to queue at his/her office seeking funds to support infrastructure projects in the constituencies hence undermining their capacity to oversight the Ministry; and

3) It has kept the resources further away from where they are needed and created inefficiency in their utilisation.

By devolving the ECDE without an accountability mechanism for quality by the counties, most county governments are not doing well in implementation of ECDE programs, especially with respect to hiring and ECDE supervising teachers.

The creation of TSC as an independent Commission may have been a mistake going by the imbalance it has caused in the sector. School managers are not fully accountable for the running of schools since they have two masters, who often don't agree on what the heads should or should not do. The consequence of this is inefficiency, duplication and unhealthy rivalry.

The TSC Act gives the Commission sweeping powers that have seen it refuse to work with other actors in the sector unless it is on its terms. But the Act has failed to place a demand of equitable use of the powers it possesses for the benefit of all children.

Recommendations

- Consider amending the constitution to devolve infrastructure development to counties.
- Consider amending the constitution to return to the national government/TSC the hiring and supervision of ECDE teachers to ensure quality and national standardisation.
- Consider amending the constitution to streamline the operations of TSC within the broader Ministry of Education structure.
- Implement fully the Basic Education Act – establish and operationalise the National Education Board.

- Amend the Basic Education Act to give parents more say in the running of schools, including a framework to demand accountability of school managers (BOMs & heads).
- Amend the TSC Act to make it mandatory for the Commission to ensure equitable distribution of teachers across the country and schools.

a) To study, assess and make recommendations on:

i) The conceptualization and implementation of key tenets guiding the competency-based approach including but not limited to value-based education, community service learning, parental empowerment and engagement

Status

The key tenets guiding the implementation of the CBC are posing the normal teething problems to implementers. Value-based education, which is critical in our education reform journey is still not fully understood, and the implementers not fully aligned to deliver it. Values are acquired through experiential learning, and mostly through observation rather than lecture. The same challenges apply to community service learning. But these are expected to be overcome with continued implementation as the implementers gain knowledge and experience.

Parental empowerment and engagement, however, faces different challenges. First, its conceptualisation is flawed. It is designed to get the city parent, who is assumed to prefers to busy him/herself with other pursuits to supporting their child's learning, to engage with the child on their school work. The city parent is not the typical parent in Kenya. The typical parent is available to the child, but lacks capacity to support the child with school work as is currently demanded. The consequence of the current model of parental engagement is two-fold: it will mechanise the relationship between parents and their children, making school work the centre piece of it; and secondly, with too much school work happening at home, the children from homes where parents can't or are unwilling to support them for a myriad of reasons will find themselves greatly disadvantaged by the school system and some may potentially drop out of school. Indeed, in our last survey in 2021, the odds of pupils born to mothers with secondary and tertiary education having better learning outcomes were 50% and 80% respectively, higher compared to those of pupils born to mothers with utmost primary level of education.

Secondly, the parent is not empowered either. This is partly due to the economic situation that has shifted power totally away from parents, most of whom are poor, MOE and TSC policies that minimise parental interaction with the school and the teachers, and the limiting legal framework.

Recommendations

- Review the parental empowerment and engagement model to minimise school work being done at home and increase interaction between the parents and teachers around the learning of the children. This way, the teachers and parents would work together to support learning rather than the teachers and parents working separately with the learners.
- Review the Basic Education Act to strengthen the role of parents in the running of schools beyond the current fundraising and discipline.

i) The assessment and examination framework

Status

The placement of learners into Grade Seven is to be determined by their aggregate performance at the end of Grade Six. Their final score will be a sum of their scores from four assessments: Kenya Early Years Assessment (KEYA), which is done in Grade Three (20%); two School-Based Assessments (SBAs) done in Grades Four and Five and contributing 20% each; and Kenya Primary School Education Assessment (KPSEA), which is to be done in Grade Six (40%). This is good in principle.

In practice, however, KEYA and SBAs assess learners in 11 learning areas. The marks posted on the portal are in those 11 areas. KPSEA will assess learners in five subjects, having combined some learning areas and dropped others. Statisticians can confirm that dove-tailing the marks from the 11 learning areas into the five subjects, with some of the learning areas missing is a nightmare.

Fundamentally, however, and without casting aspersions on the integrity of teachers, there are questions about the reliability of the marks from KEYA and SBAs. Tasking teachers whose performance appraisal is based on their learners' performance to grade the same learners puts them in a serious conflict of interest situation, with adverse implications for the reliability of the marks they generate. Yet no reliability tests have been conducted. Besides, the KPSEA as designed, and their role in placement into junior school returns the country to the costly, high stakes examinations that the country sought to move away from by implementing CBC.

Recommendations

- Do away with KPSEA as this will serve no meaning, other than create confusion.
- Put in place a mechanism for reliability testing of the KEYA and SBAs to ensure they serve the intended purpose as well as to identify non-conformities and how to remedy them.
- Separate the placement from the assessments to avoid raising the stakes that will undermine the purpose for assessments.
- Train teachers appropriately and separate their performance evaluation from the learning outcomes of their learners as measured by the assessments.
- Plan for an exit examination at the end of junior school that will aid in placement of learners into the different pathways, but without it being high stakes.

i) The quality assurance and standards framework

Not responded to in the memorandum.

ii) The teacher education and training framework for both preservice and in-service

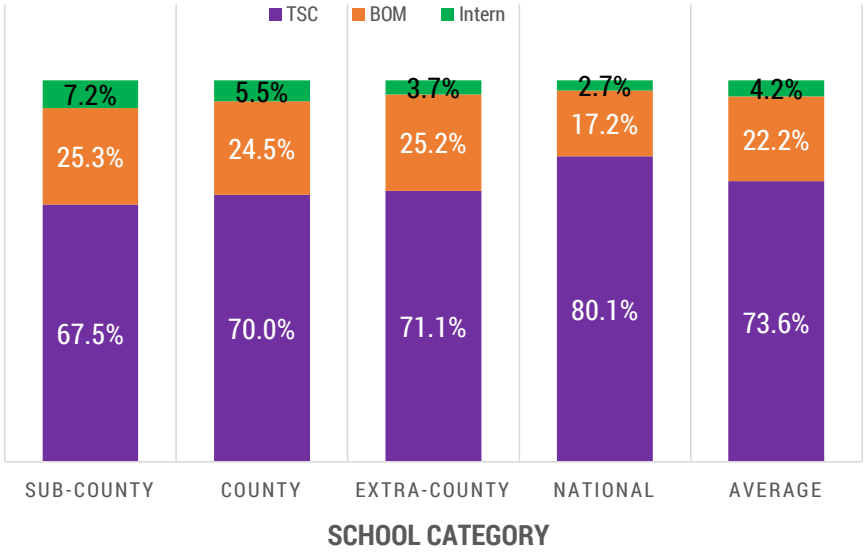
Not responded to in this memorandum.

iii) The teacher deployment framework

Status

The current status is one where teachers have been delocalised and are in short supply at the school level and over-supplied in the country. The persistent teacher shortage in schools, which is worse in some regions than others, is insidiously killing our education. Distribution of TSC teachers across the country is skewed, ranging from an average 5 teachers for a school with 10 classes that require teachers in Mandera County to an average of 10 teachers for a school with 10 classes that require teachers in Nyandarua County. The disparity also exists across the different categories of secondary schools as indicated in figure 1.

Figure 1: Distribution of TSC Teachers by Secondary School Category



Teachers, like anyone else would do when they realise that they are up to insurmountable challenges and nobody seems to care, recoil and focus on their individual survival and progress. The epitome of this is in our public primary schools, where a majority of the teachers, despite their modest incomes, are spending up to their last penny to send their children to private schools. The same strain is being felt in secondary schools after the few years of attempted 100% transition without commensurate increase in the number of teachers. The impeding double intake is a tipping point that we must not reach with the same number of teachers. In short, nothing we do in our education sector can reverse our downward spiral unless we hire more teachers and comprehensively support them, in line with the ILO/UNESCO Recommendation on their status.

However, things may be about to change following the passage of a bill by the National Assembly seeking to reverse the delocalisation policy, and the government having committed to gradually increase the number of teachers employed starting with an initial 58,000 in the current financial year. The current teacher deployment framework has also greatly disadvantaged hardship areas of the country, most of which continue to suffer perennial teacher shortages. The current TSC Act doesn't mandate the TSC to ensure equity in teacher distribution. In fact, once the TSC provides the head to a new school, it has fulfilled its mandate. Deployment of additional teachers then depends on "availability". Consequently, many school remain without teachers, while a few have more teachers than they need. For secondary schools, TSC has favoured the big schools to the detriment of sub-county schools, which educate over 60% of children in the country.

Recommendations

- While it is desirable to post teachers near home, posting a teacher in his/her ward disempowers parents, many of whom work for the local teachers as farmhands to earn a living. The closest a teacher should be posted is in a neighbouring ward, except for specific areas that may have transport-related challenges due to their vastness or security situation.
- Amend the TSC Act to make it mandatory for the Commission to ensure fair distribution of teachers across the country and across the different categories of schools.
- Create an incentive structure that encourages teachers to take up postings in hitherto hardship areas that suffer perennial teacher shortages.

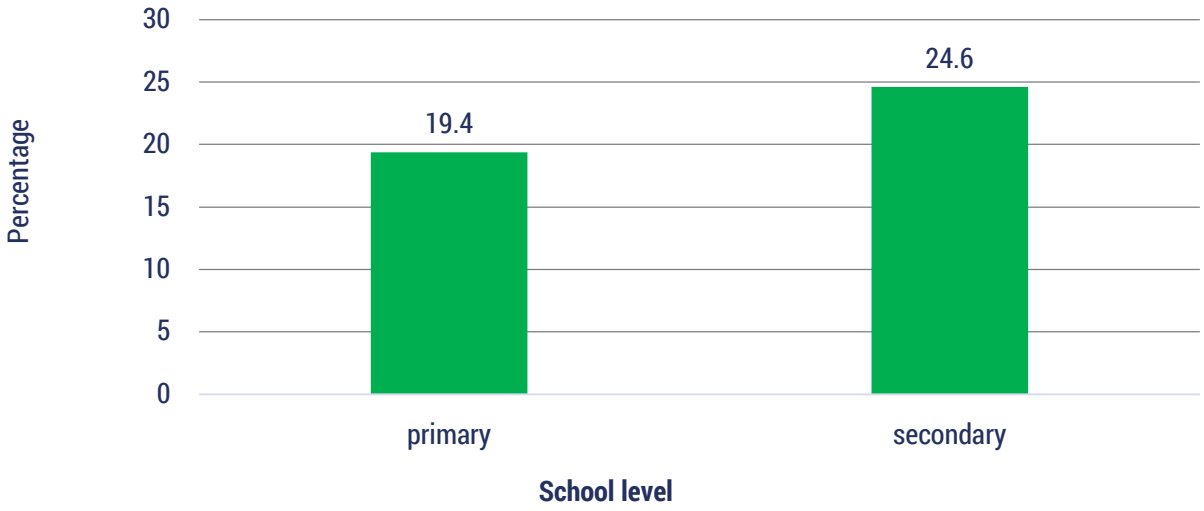
- Decentralize the functions of the TSC to county level to ensure efficient teacher deployment and management.

    i) The technology for curriculum delivery, improved learning outcomes and education management

Status

The number of schools using ICT in teaching and learning are few. From our survey in 2021, 47% were utilising KICD audio-visual learning materials, while only 13% were utilising the radio lessons offered by the national broadcaster – KCB. Similarly, only a small percentage of schools had their teachers trained on ICT integration as shown in figure 2.

Figure 2: Percentage of teachers trained by MOE on ICT integration



Recommendation

- Urgently train more teachers on ICT integration to expand the use of ICTs in the delivery of the curriculum.

    i) The governance mechanisms of learning institutions and sharing of resources across schools and TVET institutions to ensure maximum utilization of public resources for improved learning outcomes

    Not responded to in this memorandum.

    ii) The public-school categorization policies and implications on access, transition and cost

Status

Primary schools are categorised into special, integrated and regular schools based on whether they are for children with special needs exclusively, mix of SNE children and the non-SNE children or exclusively for non-SNE children respectively. While this categorisation makes it to deliver targeted education to the children with special needs, it hurts their overall development and extraction of benefits from education for post-school life. The children in special schools don't grow up with their peers. This means that they remain less understood by their peers which poses a problem in the post-school interactions and relationships. It also denies them the chance to build social capital, which many studies show matters in life.

Public secondary schools are similarly categorised into special, integrated and regular schools. Regular secondary schools are further categorised into national; extra-county; county; and subcounty schools. We focus here on the categorisation of regular secondary schools, which has great implications for equity. National schools, which educate less than 3% of the children in our secondary schools receive the largest share of TSC teachers and continue to benefit further from government support to upgrade them, a program that has been running for years now. In the current budget, KES 135 million is set aside for this purpose. They also have the best facilities. For instance, over 86% of national schools have libraries compared to only 33% of subcounty schools. Besides, the sheer size and the current capitation model that favours big schools, ensures that national schools continue to receive the lion's share of the public funds going to schools. This concentration of resources undermines the national commitment to giving every child a fair chance to thrive through education. Consequently, if you took two learners with the same marks at KCPE level and placed one in a national school and the other in a subcounty school, the one in the national school will exit form four with 5 points more than the one in the subcounty school.

Schools are also categorised as Day and boarding. Six in 10 secondary schools in Kenya are day schools while 7 in 10 subcounty schools are day and only 1 in 100 national schools is day. The recent trend has been to move more towards day schools for the cost aspect – they are "cheaper". Boarding schools have also in recent times been vilified on grounds of being more associated with indiscipline epitomised by school riots. However, evidence from our work shows that boarding secondary schools are safer for girls than day secondary schools. The probability of a girl in a day secondary school becoming a victim of teenage pregnancy is way higher compared with that of a girl in a boarding school. Besides, school riots often manifest poor leadership at the school or criminality of a few students, which the state has failed to prosecute over the years and thus encouraging more to break the rules.

Recommendation

- Recategorize all subcounty schools into junior secondary school and start transitioning them next year into being junior school by placing all grade seven learner there.
- Recategorize county, extra-county and national schools into senior secondary schools and further categorize them into talent, regular and technical schools.
- Convert some TVET institutions into senior secondary schools under the technical school category.
- Commence categorisation of senior schools along the three pathways and equip each stream adequately and in time to avoid scramble for some pathways. There is a fear that the technical and talent pathways might be inferior to the regular academic pathway, which might cause a scramble. This fear must be assuaged by adequate preparation for the other two streams (staffing and facilities).
- Maintain boarding schools at the senior school level to provide fair opportunities to learners from home environments that may be inimical to their success in education.
- xpand the integrated category under both primary and junior secondary schools to ensure that as many of them as possible accommodate learners with special needs and restrict special for few truly special cases.
- Institute a subcounty secondary schools upgrading program.

a) To review and recommend appropriate financing framework including capitation and minimum essential package grants for all levels of basic education

Status

The capitation model favours big schools and doesn't target those who need support. It is simple to implement, but inequitable and inadequate in addressing the funding needs of the school system.

Recommendations

- Review the schools' capitation model to provide for a fixed component to enable small schools to invest in their capacity development.
- Target the funding to those who need and provide differential amounts per learner based on the need.
- Involve well-to-do parents in models similar to Starehe Boys Centre's to support additional children who learn with their own children.
- Provide capitation to low-cost private schools – they play a major complementary role to the government's in provision of basic education.

a) To review and recommend equitable access to education especially for those facing social, economic and geographic marginalization, vulnerable populations, children and persons with special needs

Status

Across many poverty-stricken villages, the ASALs, and informal settlements in Kenya, millions of children are excluded from school by socio-economic realities that supersede the rhetorically progressive government policies. Children in the insecurity-prone parts of the country have to make the painful choice between life out of school and the mortal risk of taking a bandit's bullet on their way to or from school. Young girls, who for no fault of their own, have been forced into premature motherhood, abandoned by family and friends, and blamed by society for their own victimhood, have to choose between returning to school to build their futures and the immediate survival of their babies. In our 2021 survey, only 58% of teenage mothers returned to school despite the government's active policy to encourage them to do so.

Many children are engaged in seemingly insurmountable daily struggles for survival, in pursuit of education: some cross crocodile-infested rivers while others trudge long distances to and from school, often on empty stomachs, to quench their thirst for knowledge. Yet society is ready to stigmatize them if they return below-par examination scores. Many children have been conscripted into criminal gangs and bandit armies, to kill and maim for the benefit of heartless gang masters. Others have been turned into beggars for hire, enduring the searing vagaries of street life to collect money for shadowy sleek operators.

Yet many children in school are not fairing any better with respect to exclusion. Indeed, the real struggle is shouldered by children trapped in schools that use them as hostages to fleece their already impoverished parents while contributing nothing to improving their prospects in life. Many children are frequently sent home to bring school fees, teachers' motivation fees that are unreceipted and not paid to the school's official bank accounts, rims of foolscaps, etc. yet when in school, their teachers rarely attend lessons. And when they do, they are often unprepared for their lessons.

But many committed teachers are frustrated. They are frustrated by overly corrupt and dictatorial school heads who run the public institutions like their private enterprises and for private gain. Even more frustrating is the fact that often, it is the heads who lead in non-attendance of lessons and blatant display of impunity. Many owe their positions to nepotism and corruption, and thus consider themselves untouchable. They treat parents and fellow teachers with the utmost contempt as they enjoy protection from their superiors in the education management hierarchy to stay in their nefarious business.

Many teachers have immersed themselves in pursuit of academic papers, often at the expense of teaching because to them, it is the only pathway outside of corruption and nepotism to career progression. A bigger problem, however, is the school resourcing policies that favour big schools, generally captured by well-to-do parents, to the detriment of the smaller schools educating a majority of children, most of whom are from poor households. This has seen a few schools being well-resourced and well-managed, while many others are just a little better than growth centres.

Recommendations

- Establish a school feeding program that ensures every school-going child gets at least one meal a day at school.
- Institute and enforce strict school establishment guidelines to ensure consolidation of resources rather than spreading resource thin across multiple schools within close proximity of each other.
- Establish a program to support teenage mothers with childcare to enable them to re-enter school after delivery.
- Transparency and accountability of all actors in the management of the education sector and for all-inclusive partnerships that enable productive collaboration.
- Review policies to open up schools to public scrutiny to avoid a situation where they become black holes in which children endure untold suffering to the extent in some cases, of damaging their characters.

a) To review and recommend appropriate framework on the management and coordination of bursaries and scholarships for secondary school students

Status

Currently, there are several private sector actors and philanthropies providing scholarships mostly for secondary education. A good example is the wings to fly from Equity Bank. These supplement the national government, County governments, Constituency Development Fund, Ward Funds, Women Reps funds that go to bursaries. Unfortunately, all these funds are uncoordinated. Those managed by politicians, are often used to appease supporters, thereby winding up distributed across the constituency, county or ward in small amounts that don't help the needy recipients. The corporate funds sometimes end up supporting the same learners many times more than their need at the expense of other deserving cases.

Recommendation

- Consolidate all the bursary funds and channel them through one, apolitical national institution with decentralised structures that go down to the ward level. The ward level structures would then be responsible for working with the communities to identify the needy cases, ascertain their level of need and recommend to the cases to the higher levels for award of the bursaries. This would eliminate ghost beneficiaries by making public the funds allocated to each county, constituency, ward and the lists of beneficiaries. It would also enhance efficiency and reach more beneficiaries in a meaningful way. A possible institution to do this is the Jomo Kenyatta Foundation, which has been in the business for a very long time and gained a lot of experience.
- Allow the ward level Committees to mobilise additional resources to support the bursary funds, provided that such funds are also channelled through the same organization managing the fund across the country.

a) To review and recommend a framework for physical and infrastructure development and coordination of public private partnerships for improved access and quality provision

Status

Currently, there is great shortage of infrastructure in our schools at all levels. In our last survey in 2021, only 33% of the surveyed boarding schools reported having adequate space in their dormitories. This is besides a shortage of essentials such as toilets (very critical for girl schools), and dining facilities. Subcounty schools generally lack infrastructure including libraries and laboratories. Girl schools are generally less equipped with biology, physics and chemistry laboratories compared to boy schools.

Recommendation

- Devolve infrastructure development to the counties to improve accountability and efficiency in the delivery of infrastructure projects.

a) To review and recommend a tracking system to capture and enrol children of school age to ensure universal access to pre-primary, primary and secondary education

Status

In our survey in 2021, 4 in 10 children of pre-school age across the country were out of school. This percentage varied from county to county, with Marsabit County leading in the number of children who were out of school. As the government is implementing the free and compulsory basic education policy, it is important to note the different requirements of actualizing the goal. The MOE can implement the free primary and free day secondary school policies. But it can't implement the compulsory aspects of the policy as it lacks the tools.

Recommendation

- Incorporate the Ministry of Interior through the Chiefs and village elders to track and take children to school. They should be ones held to account for children in their jurisdiction that don't go to school.
- Expand the numbers of and distribution across the country of approved schools to ensure that children who may use indiscipline as their passport out of school are still made to go through the mandatory basic education.

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