

# SOCIAL CHALLENGES FACING HEADS OF SCHOOLS IN THE PROCESS OF ENACTING THE CHILDREN'S ACT (2001)

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## **Abstract**

*Education has been identified as a tool for fostering the development of knowledge, skills, attitudes, values and ideals necessary for individuals to play a productive role in any society. The signing of the various global policy frameworks such as the 1998 United Nations convention on the rights of the child (CRC), the 1990 Jomtien world conference on EFA, the 2000 world education forum (Dakar, Senegal) and the 2000 Millennium Development goals (MDGs) demonstrated the commitment by governments to the well being of children. In regard to this, Kenya fully implemented FPE in 2001 and also partially free secondary education in 2008.*

*However, there are social challenges facing the management of schools in the wake of the craze to achieve high mean scores which go against the rights of children as stipulated in the Children's Act (2001) and in turn affect retention and participation of the children in education. Overemphasis on the cognitive aspect of education, while overlooking the other potentials that a child has, leads to discriminatory acts that may hinder full participation of a child in education.*

*This study therefore sought to identify the social challenges facing heads of schools in the enactment of the children's rights and also establish ways of dealing with the challenges identified.*

*A case study methodology was used to achieve in-depth and detailed information. The study was carried out in Bungoma East District of Western Province where 10% of secondary schools were purposively sampled. The research tools employed included; questionnaires, interview schedules and focus group discussions (FGD) to collect information from students, Heads of departments (Guiding and counseling), Heads of schools and District quality assurance and standards officers (DQUASO). Data was analyzed both qualitatively and quantitatively. Descriptive analysis was used to report the results of the data.*

*The study found out that Principals and DQUASO (District Quality Assurance and Standards Officer) were aware of the children's Act and policy on repeating but societal expectations and school policies made it impossible to implement the same. Of the teachers sampled, 72% were aware of the children's Act but upward job mobility influenced their position as regards acts of*

*discrimination in education. Only a small percentage (13) of the children sampled were aware of their rights yet they did not understand that acts of humiliation as regards achieving of low grades in examinations were actually acts of discrimination that goes against their rights in education. The study too found out that there is no serious follow up by the government on the implementation of the policy on repeating and the enactment of the children's rights 2001. Parents seem to stand on the fence helplessly as their children go through acts of humiliation with regard to their grades in examinations. The study recommends the government to endeavor to implement to the fullest both the children's act, specifically in education and the policy on repeating in schools in order to seal the gaps that allow for discriminatory acts in the school system.*

**Key words:** *social challenges, enacting, children's act (2001).*

### **Background to the Study**

The strengthening and expansion of human rights movements led to the enactment of children's rights as far back as 1921 when the League of Nations adopted a general declaration on the rights of children. Specifically, on November 20<sup>th</sup> 1959, the UN General Assembly resolution 1386 XIV adopted the universal declaration of the rights of children and in 1944 established the United Nations Children's Fund (UNICEF) to cater for children who were victims of World War II, this was extended to cover third world countries in 1951. In 1979 it passed a resolution 31/169 to declare 1979 the International year of the child in a bid to further increase awareness among member states on the special needs of children and also promote recognition of the fact that programs for children should be part and parcel of any economic and social development plans. The UN convention on children's rights was adopted by the UN General assembly in 1989 and came into force in September 1990. The convention defines a child as a person below the age of 18 years. The Jomtien Declaration of education for All (EFA) 2000, The Millennium Development Goals (MDGs) and The Kenya Children's Act (2001) has been a pointer towards the enhancement of education for all.

In the Bill of Rights, children are entitled to education, which should be free and compulsory at primary level so as to develop the child's culture and facilitate the development of abilities.

Kenya being a signatory to the UN Convention on Human Rights and The African Charter on the Rights of the child, has the obligation to ensure the protection of the Rights of the child in education so as to face out any forms of discrimination in schools that hinder the full participation of the child. Kivilu (2004) maintains that schools are supposed to be social, moral and academic organizations charged with the function of developing social responsibilities in young people, training them in sound and moral precepts and equipping them with appropriate skills, knowledge and abilities for the purpose of future development. The Kenya Children's act (2001) has seen the government take a keen interest in the child. According to section 13:1, a child shall be entitled to protection from physical and psychological abuse, neglect and any other form of exploitation. Section 5 states in part that "no child shall be subjected to discrimination on grounds of sex, religion, disability....."(Kenya Children's Act, 2001).

Looking back at the history of education in Kenya, it has been examinations oriented with undertones of acquisition of practical skills. The first formal schools which were set up way back in 1935 put a lot of emphasis on technical education and examinations (Bogonko, 1992). In 1938, pupils from government African schools (GAS) had to sit the Common Entrance Exams (CEE) which was a criterion for moving to class five or be pruned all together. The Kenya African Primary Examinations (KAPE) provided selection criteria for secondary education. In 1980, by an act of parliament The Kenya National Examination Council (KNEC)

was born to manage exams in Kenyan schools. All this time, emphasis was on academic performance as seen in passing of exams to qualify for the next level (Bogonko, 1992; Eshiwani, 1993). According to Hickman, Henrick and Smith (2002), when excellence is pegged on only academic performance as a measure of excellence, schools engage in cream skimming; they exclude the weak students from sitting an exam as pruning of students sets in.

The exam system has led to some acts of discrimination especially on grounds of low achievement on grades. A study carried out in Mauritius in 2004 by the Ministry of Education and Scientific Research (MOESR) found out that the issue of ranking schools was a major stumbling block to equity in education and that it also gave a lopsided education whose main focus was on examinable subjects other than examining the holistic development (Amunga, 2009). According to a study done in Kenya (Otieno, 2010), Schools burden students with assessments due to high stakes placed on excelling. According to the study, the current curriculum has failed to adequately capture learner related peculiarities such as aptitude, interests and regional diversities. The study also revealed that the use of parallel syllabus prepared by KNEC and K.I.E negatively affects curriculum as teachers use the KNEC curriculum as it appears more attractive to teachers than the K.I.E. As a result, students graduate with lack of practical skills and desired attitudes and values due to over emphasis of theoretical work geared towards "A" in exams.

Acts of discrimination in the education system have been tolerated because of societal expectations where teachers have to meet subject targets. This forces them to make every effort to be seen as having children who are passing thus put in place some measures which end up discriminating some of the children. The school heads on the other hand have to protect their positions and make a name. This coupled with pressure from the local community the politicians and the Ministry of Education, use every means to achieve high mean-scores thus save their skin.

On the part of parents, they are not available for the child as they are busy pursuing further studies or chasing for money to meet the ever increasing societal and family expectations. The child is left alone with nobody to assist thus falls prey to the discrimination acts.

Kenya was able to cater for the Free and compulsory education through an Act of Parliament in 2001 to cater for the increasing number of school dropouts at this level and also in line with the Convention of the children's rights and the Education for All. The Ministry of Education (MoE) adopted a sector wide approach to program planning (SWAP) with the aim of engaging all stakeholders in education to attain National ownership, alignment of objectives harmonization of procedures, approaches and a coherent financing arrangement. The government together with her development partners has developed the Kenya Education Support Sector program (KESSP) based on overall policy goal of achieving EFA and the MDGs. The Policy on repeating was also enacted in 2001 to safeguard the rights of a child to complete schooling and thus improve participation in education by eradicating dropouts. It had been observed that repeating of classes especially at class seven and form three was due to low achievement on grades. This had led to an increase in dropouts (Omutsani, 2008).

## Research Problem

Some of the most crucial current issues in educational management are related to governance, effective schooling and performance indicators, conditions of employment of teachers and in-service education such as what type of policy and operational decisions should be made by central, regional and school bodies. The apparent issues in the enactment of the children's rights in education in schools fall under governance and effective schooling. There are acts of discrimination in schools due to the struggle by the schools to make a name by posting high mean scores. The cut-throat competition in the school system becomes even stiffer

with those not excelling having no way out. The system glorifies exams to the exclusion of everything else. Grades for students and mean scores for schools is the order of the day, irrespective of how they are achieved. Though the government has put in place some measures to protect the child against discrimination in education, such acts as repeating, expulsion for low achievement on grades and humiliating acts on the child are so rampant. Discriminating a child due to academic ability goes against the rights of the child as seen in sections 5 and 13:1 of the Kenya children's Act of 2001.

#### *Objectives of the Study*

1. Find out whether children, teachers and Heads of schools were aware of the Children's rights and the policy on repeating in schools
2. Identify areas of discrimination on children in schools and Establish reasons behind such discriminatory acts
3. Identify challenges faced by heads of schools in enacting the children's rights in education and non- discrimination.

#### **Theoretical Framework**

This study was based on the conflict theory which views human society as a collection of compelling interest groups/structures, each with their own motives, expectations and goals. This theory originated from and was inspired by Karl Max (1818-1883), Max Webber (1864-1920), Georg Simmel (1858-1918) and Ralf Dohrendorf (1959). It tries to explain why and how conflicts arise. When social actors struggle to attain what they consider as desirable for their well being such as power, authority, influence, wealth and higher social class, which they feel denied, a conflict may arise.

According to this theory, social institutions are constantly changing and this encourages conflicts especially where the institutions are not able, unprepared or even refuse to change. Education being a major/important social institution is subjected to many social forces in society. Dependence on academic achievement and examinations, end of term tests and even regional and national examinations as the only recognized and accepted form of assessing pupils, encourages and trains pupils to compete for top grades while the Schools, teachers and heads compete for mean grades and mean scores but does not promote cooperation needed to produce an all round pupil. Competition is a form of conflict. Therefore, in order to minimize the risk of engendering competitive attitudes in learners and the accompanying tendencies, other forms of assessing learners should be installed in schools, such as social and personality assessments.

#### **Methodology of Research**

In this section, the conceptualization of the research design, methodology, analysis procedures and the entire research process is presented.

#### *Study Design*

A case study methodology was adopted so as to gather in-depth data on the subject. A case study methodology enlists in-depth comprehensive information. The research employed the qualitative paradigm in its descriptive form to discuss the findings and qualitative to quantify the data findings. The study was conducted in Bungoma East District. Being a case study, only one District was sampled in order to study the problem in detail. Bungoma east has

schools fighting to out do each other thus it formed a typical case.

The study purposively targeted District, provincial and private secondary schools, where 10% (6 schools) were randomly selected; 2 schools from each of the three categories.

The bottom-up approach was utilized where perspectives of the primary actors- the students, were first enlisted before branching out to teachers, heads of schools and DQUASO officers.

**Table 1. Sampling.**

| Respondents      | Target population | Sample selection |
|------------------|-------------------|------------------|
| DQUASO           | 1                 | 1                |
| Heads of schools | 48                | 6                |
| Teachers         | 960               | 36               |
| Children         | 24,620            | 120              |
| Total            | <b>25629</b>      | <b>163</b>       |

**Students:** The research targeted forms one to form four students in the selected schools. This was to help understand the perceptions of all the students as each class had experienced the problem under investigation. The study purposively sampled the very weak students and those average achievers on the account that the former were the ones hardest hit while the latter group was at the edge and could easily fall back into the targeted group of low achievers. Questionnaires were administered to seek their perceptions.

**Teachers:** The Guiding and counseling teachers were targeted as they were the ones who handled students who went through the forms of discrimination in school. Career teachers were also targeted to discuss the implementation of the government policy on no repeating for students and the acts of discrimination adduced. Class teachers were also targeted as they handled all cases in their classes. Focus-group discussions were conducted with the teachers so as to seek their views on the policies and the implementation of the rights of the child.

**Heads of schools:** These acted as key informants since they are the implementers of government policies and the children's rights at school level.

**DQUASO official:** Quality assurance inspectors were interviewed. Being in charge of quality, they monitor the implementation of government policies and other Bills in schools.

#### *Research Instruments*

A variety of instruments were used to reach the informants, these included; questionnaires for Students, focus group discussions for teachers and Interview schedules conducted with Heads of schools and DQUASO officials.

#### *Research and Data Analysis*

Field research was conducted in the sampled schools. Data was analyzed using simple statistical tools such as percentages and information reported quantitatively. Data analysis was on-going and begun during the actual field study. The team members met everyday to share their findings.

## Results of Research

This study sought to examine the implementation of the children's rights in education and the government policy on repeating of classes in schools and also to establish the challenges heads of schools are facing in implementing the policy and enacting the rights of the child in education. These are discussed under the following themes: a) Awareness of the Rights of the child in education and the government Policy on repeating; b) Areas of discrimination on students and the reasons for acts of discrimination on students; c) Challenges faced by heads of schools as they try to implement the policy on repeating and also enact the children's rights in education.

### *Awareness of Children's rights and the Policy on Repeating*

The study established that the adult respondents and 90% of the children involved in the study were aware of the rights of children against discrimination in education and the government policy on repeating classes in schools. The table below gives this analysis

**Table 2. Levels of awareness on the children's Act (2001) and the Policy on repeating.**

| Respondents | Had no Idea | Had an Idea | %   | Knew content | %   |
|-------------|-------------|-------------|-----|--------------|-----|
| DQUASO      | -           | 1           | 100 | 1            | 100 |
| Principals  | -           | 6           | 100 | 6            | 100 |
| Teachers    | -           | 36          | 100 | 26           | 72  |
| Children    | 12(10)      | 118         | 90  | 17           | 13  |

From the table above, it was apparent that only 10% of children were not aware of the policy and the children's rights in education. Though 90% had an idea, from what they heard from peers and in their History lessons, a minority, 13% actually knew what was contained in the drafts. They had never even set their eyes on the drafts. This meant that the children's bargaining power was low as they could not fight for what they did not understand.

On the part of the teachers, it was surprising to realize that 28% had not read the contents, thus relied on what they heard from their colleagues. The 72% who knew the contents could not act on it as there were other factors that hindered them. Both the Principals and the DQUASO officer were well aware and had even gone through the two documents. Like the teachers, The Heads of schools agreed that the implementation of the two had been slow. The major reason given for the slow implementation can be summarized as follows:

*"The cut- throat competition in the school system had become so stiff that those not excelling were left out. The system glorifies exams to the exclusion of everything else. Grades for students and mean-scores for schools is the order of the day, irrespective of how they are achieved"*

Due to this fact, schools had adopted policies to enable them fight through to secure zones- High mean-scores. The most common policy quoted as being in practice was the policy on repeating due to low achievement on grades. It states in part that: No student will be allowed to proceed to the next class unless they meet a set target. The targets per class were as follows;

**Table 3. Required scores for promotion to other classes.**

| School type | Minimum score to proceed to next class |          |                 |
|-------------|--|----------|-----------------|
|             | F1 to F2                               | F2 to F3 | F3-F4           |
| Provincial  | 650/1100                               | 550/1100 | 'C' mean grade  |
| District    | 400/1100                               | 350/1100 | 'C-' mean grade |
| Private     | 600/1100                               | 500/1100 | 'C' mean grade  |

Any child who fell short of the score in terms 1 and 2 had to be subjected to any one or a combination of the following situations.

- Had to come to school during school holidays in the company of both parents so as to discuss the child's performance in the exams and any other matters arising from the low achievement. The child had to write a letter of commitment that in the event that they failed to meet the target, then they would repeat the class.
- During the end of term closing Assembly, the children's names were called out as they stood up. Failure to stand up earned the student another punishment
- The child had to close school before the rest and with him/her carry all their possessions. This was done with the hope that the child would not want to come back after such humiliation. Those who came back after this were sent away again several times with their belongings. Some gave up on the way and either sought alternative schools or accepted to repeat class in the same or even alternative schools.

*Reasons given for such Acts*

The adult respondents did not see these as acts of discrimination but ways of forcing those achieving low grades to improve. Though in some cases the policy dampened the spirits of some children, yet it had helped quite a number of them to excel. They cited cases where a child in the bottom bracket had worked their way to better grades for fear of undergoing such situations. When asked about those who could not meet the mean mark set due to academic incapacitation they said that such had to look for alternative schools where the cut-off mark was lower as theirs was a competitive system.

The teachers also cited improved mean-scores as a ladder to promotions either as administrators or senior Heads of departments. Whenever the Teacher's Service Commission (TSC) conducted interviews, subject means in the National examinations were highly recognized for promotions. Teachers therefore felt that they had to present candidates who would help improve their subject mean scores.

The Head teachers on their part agreed that mean-scores were a ladder to success or failure. Those who posted good mean-scores and were in "small" schools were promoted to head bigger schools. Those in the "big" schools had to do everything possible to remain there. Competition motivated them to use every means to achieve the end.

The Adult respondents also agreed to the fact that, though the government had stopped ranking schools in national exams, Mean-scores for schools were calculated and ranking done behind the scenes. Schools and all stake holders got to know about it. This just goes to reinforce the cut-throat system we have in place.

The Issue of politics in schools, where the local community, to include the local politicians encouraged such acts of discrimination had become rampant. If a school did not post improved mean-scores, cases of heads of schools being ejected out of schools had grown tremendously. The government seemed to be at a loss over such issues as the communities seemed to triumph over the decisions that they (community) made. Schools were left with no choice other than seek for modalities to ensure high mean-scores.

### *Children's perception on Education Rights and Government's policy on Repeating*

The child respondents were well aware of their rights to education but did not seem to understand the basic contents of the document. As sighted earlier in this paper, only 30% of the child respondents had heard about their rights from peers and their History lessons, thus they lacked awareness on the fact that what they were going through due to low achievement on grades was an act of discrimination. Those interviewed felt that what was being done to the low achievers was so humiliating and unfair.

*"It is not my wish to be at the bottom of the class. I try my best but it seems my best remains to be the worst according to the teachers. It is so embarrassing to be subjected to standing before other students, even your juniors".*

A child who had left the school earlier due to low achievement on grades was quoted to have said:

*"When a teacher asks a question in class, before I even understand the question, others have already answered it".*

Such a child may not benefit from acts of humiliation as there is resignation in the words. The children stated that they needed the teachers to be more understanding since they too were parents. Where a child was out rightly trying but could not make it above the mean mark, then help was necessary but not humiliation, psychological torture and health complications.

The children also complained that it was so dehumanizing to ask the low achievers to close school before the rest and subject them to several trips back home with their belongings, yet they are the ones who mostly needed attention from the teachers. Their feeling was that such children be left at school for remedial teaching so that they too can catch up with the rest.

Some concurred that their parents also went through psychological torture when a child appeared home with all their belongings thus harassed the children before even reading the report stating the issue at hand. Cases of children going home with all their belongings were only common where a child had been expelled for pregnancy or other serious offences. The neighbors too were an issue as they also came up with humiliating stories to explain why the child had been sent home. This made the situations in the child's life more traumatizing such that some developed medical conditions such as ulcers and high blood pressure at a tender age.

### *Challenges faced by Heads of Secondary schools in the Enactment of Children's Rights*

The study established the following as the major challenges.

- According to the heads of schools, children have varied abilities yet the present system of education does not cater for this. The society is so engrossed in quality performance that they hardly notice those with lower ability academically. When they try to stream students according to ability, parents don't seem to take it kindly yet some students are unable to cope. There was a case in one of the schools sampled where a student who had come in form one could not even complete a term. She opted to leave the school saying:

*"The other students are too first for me to cope. When a teacher asks a question, before I even think, some students have already answered the very question".*

Such students would be better off in their own class where a teacher can meet their individual differences. In the event that this student does not drop out, they perpetually remain at the lower end of the class. The ministry of education, parents and the entire community expect good mean scores, what then does a head do with such a child?

- Parents have abdicated their role of parenting to the school. They have no time for their children as they are busy furthering their education or looking for an extra coin to supplement the family income. They therefore hardly realize when their child's grades begin to drop. They have even been heard to ask if holiday tuition can be extended to the December holiday. The school is therefore left with the role of parenting and providing adequate education for the child. Without the parent's concern, it becomes difficult to follow up cases of low achievement thus heads resort to sending the child home so that the parent can get a chance to come to school. Sometimes such parents even fail to go to school when invited, so, what does the head of school do with the child?
- The teacher is so overworked following the dual role they have to play on the child. Having other roles to play as parents to their own children, husbands/wives, they hardly can afford the much time needed to attend to the other needs of students at school other than the academic function. Coupled with the expectations of achieving high subject mean scores, the teachers therefore get down on academics and move with those who are able. The low achievers are left out. The head has to find ways and means of assisting such students. When asked whether the system they were using was of any help to the child, the heads answered:  
Yes and no. Yes because, when a student is made to stand before teachers and fellow students, some have confirmed that they feel bad to have let down their best teacher or one who is their role model. Such children end up improving tremendously. But there are those who actually feel bad but are unable to make any meaningful improvement since they have lower abilities. These are the ones we feel for but then the school policies must be followed.  
No because, some students perform poorly because they want to hit at a teacher or even the parent. Such do not even seem to care about being humiliated but feel heroic. One student had this to say:

*"I just love to see my father come to school. He has no time for me at home. If I don't create a situation for him to be forced to come, then he will not. So I plan to remain at the bottom so that he actually comes to see me".*

## Conclusions

Though adult respondents were aware of the Government Policy on repeating and the Kenya Children's Act 2001 on education, a desire to achieve high mean-scores, coupled with the pressure from all stakeholders in education, and had led them to discriminate children in terms of academic ability. There seems to be no serious follow up by the government on the implementation of the policy on repeating and the enactment of the children's rights 2001, as children continued to be subjected to repeating of classes and discrimination in terms of academic crime- low achievement on grades.

Parents seem to stand on the fence helplessly as their children go through acts of humiliation. Either they are ignorant of the government policy on repeating or the children's Act on education 2001 or they do not care about what happens to their children in school. There are other factors affecting the academic performance of children other than laxity on their part. Some of them have a lower ability to comprehend and recall what they are taught. Subjecting them to acts of humiliation may never help them improve, if not dampen their spirits.

Children, though aware of their right to education, were not aware of the fact that some practices in their schools were acts of discrimination which went against their rights even in education.

### Recommendations

1. There is need for the government to endeavor to implement to the fullest both the children's act, specifically in education and the policy on repeating in schools in order to seal the gaps that allow for discriminatory acts in the school system.
2. The government, through the Ministry of Education, should put in place mechanisms geared towards meeting the rights of the child and aggressively monitor the children's welfare.
3. Schools should set up realistic and practical policies which discourage any form of discrimination but encourage the learner to participate positively.
4. The Government should seek for better ways of assessing the children's aptitude other than using academic exams. The education system should be more focused on knowledge and skills rather than grades.
5. There is need for a study to be carried out to ascertain the levels of awareness of parents concerning the government policy on repeating and the Kenya Children's Act (2001).
6. There is need for the government to educate children on their rights especially in education so that they can say no to acts of humiliation and discrimination that are rampant in our schools
7. KNEC should provide only examination regulations and guidelines instead of another syllabus that would conflict the one from K.I.E.

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