

The Role of Policy in the Development of Special Education

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Abstract

In terms of the number of students served and the overall quality of special education services provided, it is clear that special education has, from its early beginnings in the late seventeenth century, advanced at various rates in the different countries of the world. Data from the United States Department of Education (2007) indicates that 12% of the school age population (6-17 year olds) in the nation are children with disabilities in special education. Kenya's population of students with disabilities in the schools now stands a little over 221,995 (Ministry of Education, 2008) in a country where 25% of the estimated 3.2 million people with disabilities are school age children. This paper provides a comparative overview of the role of government policy in the progress of special education in both the United States of America and in Kenya with the aim of emphasizing the role of comprehensive policy, follow-through, oversight, and accountability to achieve targeted results in the field of special education in Kenya.

Key Words: Special education, educational policy, comprehensive policy development

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Introduction

Literature indicates that the first schools and programs for individuals with disabilities were not as a result of any established goals of the country in this regard but rather a result of the combined and independent efforts of religious and secular organizations (Ministry of Education, 1981). Some of these schools were established to provide custodial care for older individuals with disabilities while others were meant to rehabilitate injured second-world-war soldiers (Cherono, 2003& Kiarie, 2004; Ndurumo, 1993). By 1963, these early efforts had yielded three schools for individuals with hearing loss, a school for individuals with visual impairments and another for those with intellectual disabilities, a special needs school and the Aga Khan Special School, both of which served individuals with different types of disabilities.

The Kenya National Special Needs Policy Framework of 2009

The various policy guidelines from task forces, commissions and other forms of inquiry into special education, along with the accompanying follow through activities propelled the country forward in this field. However, these various policy guidelines and effort on special education in Kenya culminated in a comprehensive policy on special education in the country. Kenya's Ministry of Education, after taking stock of the status of special education in the country, passed the National Special Needs Education Policy Framework in 2009, a measure that portends possible unprecedented progress in the field of special education in the country. This policy identifies a number of areas of concern that the government of Kenya through the country's Ministry of Education and other stakeholders target for growth, articulates objectives in each of these areas and delineates planned strategies for use in meeting these objectives.

However, this Policy Framework has only been in effect since 2009 and is due for review to determine its effectiveness along with any quarks. The development of special needs education in Kenya has been guided by policy guidelines and goals and objectives which have resulted from various education commissions, needs analysis groups, committees and taskforces. These guidelines have been articulated in government circulars and other documents. It is therefore imperative to review these various sources of policy guidelines on special education in Kenya to appreciate their contribution to the development of the field.

Special education guidelines, goals, and objectives from Education Commissions, Committees, and Taskforces

As mentioned earlier, until recently, Kenya's early guidelines on education of students with disabilities could be derived from various documents and circulars resulting from parliamentary sitting sessions, education commissions and task forces. Kenya attained independence from the British in 1963 and since then the government has made education of its children and youth a priority. A year after independence, the government formed an Education Commission to look into the national educational policies with the aim of ensuring the building of a national identity and cohesion through these policies. This group, the Ominde Education Commission, also investigated the state of individuals with disabilities in Kenya and summarized its report on this area in a document titled *Care and Rehabilitation of the Disabled* (Republic of Kenya, 1964) thus bringing education of this population to the forefront as another national concern. In this regard, the Education Commission made several observations and recommendations. First, the commission articulated its recognition of the psychological and emotional problems that children with disabilities face as a result of their condition and underscored the need for special education and training for all students with disabilities despite the level of severity. The commission went on to recommend that teacher colleges acquaint teacher candidates with the effects of disability on both the intellectual and academic development of children. With regard to educational environment, the commission indicated that students with mild disabilities, as long as they were provided with the necessary supports, they were capable of receiving education and training in regular schools alongside typically developing students (Republic of Kenya, 1964).

Further direction in special education in Kenya resulted from Sessional Paper number 5 of the Kenya Parliament of 1968 (cited in Ndurumo, 1993). Both the “Inspectorate” and the “Directorate” sections of the Ministry of Education, a Special Education Curriculum Development Unit at the Kenya Institute of Education (K.I.E), and the Kenya Institute of Special Education (K.I.S.E) were established around this period. The Inspectorate and Directorate branches of the K.I.E were each responsible for certain areas although they were to work closely and alongside other ministries and governmental and nongovernmental organizations in providing services to individuals with disabilities. Responsibility for the management of special education programs in the country along with matters of financing, supervision and policy was placed in the hands of the Inspectorate. The Directorate maintained responsibility for the in-servicing of teachers for students with disabilities, curriculum implementation, and maintenance of special education standards (Cherono, 2003). A long with the Special Education Curriculum Development Unit at the Kenya Institute of Education (K.I.E), a milestone was reached in the development of special education in Kenya with the establishment of the Kenya Institute of Special Education (K.I.S.E) in the 1980’s.

Apart from the results of Sessional Paper Number 5 of the Kenya Parliament, the government also formulated specific goals regarding the education of students with disabilities which were articulated in the Ministry of Education report of 1976, the Gachathi report (Republic of Kenya, 1976). According to this report, in implementing special education, the government aimed to provide educational and other services to students with disabilities, to foster inclusion of students with disabilities in regular schools as much as possible, to create awareness of disability issues in order to garner national and international support for special education programs and projects, to meet the needs of students with more severe disabilities by establishing residential programs, and to add specialized services to existing local schools in order to meet the needs of students with disabilities in those schools. Through provision of specialized education and social, cultural, and vocational training, education of students with disabilities aimed at overcoming the effect of disability by enabling these individuals to take their place in society as full and useful members able to become self-sufficient individuals contributing to the development of the nation. These goals are very similar to the goals that the United States Congress articulated when it passed IDEA in 1975. To foster the possibility of the attainment of these goals in Kenya, the education commission highlighted the need to create awareness and concern among the public for the urgent need to establish and expand special education programs.

Special education encountered growth in terms of more schools, units, and programs for children with disabilities in addition to higher enrollments in the programs. By 1986, there was a total of 16 programs for students with visual impairments with a total enrollment of 1568 students with visual impairments (Ministry of Education, 1987) and 52 programs for individuals with intellectual disabilities consisting of 17 schools, 30 units, three prevocational schools, and a sheltered workshop. The total number of programs for students with hearing impairments in 1986 was 26 with a total enrollment of 2,156 (Kenya Society for Deaf Children, 1987). By the same year, there were 10 programs for students with physical handicaps with a total enrollment of 1400. Alongside this, training for teachers of students with hearing, visual and intellectual disabilities became centralized at the Kenya Institute of Special Education (K.I.S.E) and a training program for teachers of students with physical disabilities was also established at the Institute, which, apart from serving as a centralized location for the training of teachers of students with various types of disabilities, organized a model assessment center and a nursery school for students with disabilities. The institute also operated as a center for the production and repair of teaching materials and aids for individuals with disabilities. K.I.S.E became a resource center for production and dissemination of information about disabilities to the general public and periodically organized in-service training for personnel in education and those in other ministries working with individuals with disabilities (Kiarie, 2004; Kenya Institute of Special Education, N.D).

Cognizant of the benefits of child identification for the benefit of early intervention and other services, the government initiated centers for assessment of children with disabilities called Educational Assessment Resource Centers (EARC) (Ministry of Basic Education, 1981) and by 1988,

28,000 children had been assessed for and identified for services in one of the 40 assessment centers in operation. Short-term courses and other activities for parents and other stakeholders were and continue to be conducted in these centers which also integrate children with disabilities in special schools, establish special units in regular schools, establish “small homes” for integrated students with physical disabilities, refer children for medical examinations, provide equipment needed by students with disabilities, run seminars for teachers, administrators, health professionals and social workers, and collect information on students with disabilities for special education planning and research. Apart from assessing children in special classes and assisting teachers in effectively planning their teaching, the EARCs also identify, at an early age, the appropriate placement for individual students and assist parents of younger children with disabilities through home visits and guidance at the centers.

More input into policy guidelines for special education in Kenya came from a number of education commissions and task forces. The Kamunge Report (1988), a result of the Presidential Working Committee on Education and Training for this Decade and Beyond recommended that special needs education inspectors be deployed in the districts. Ten years later, the Dr. Koech report, a result of the Totally Integrated Quality Education and Training Task force, recommended that a special needs advisory board be established and noted the necessity for a comprehensive special needs education policy in the country to guide the activities of this sector.

Another task force, the Dr. Kochung Task force (2003) was set up by the government to investigate and report on the status of special education in the country. In its report, this commission recommended that teachers for the special needs population be trained and those in the field be in-serviced, that funding be provided for determination of and intervention with the early prevalence of disability among school age children and youth, and that special education schools be made barrier free to facilitate access in the physical environments of learning by students with disabilities. Two other documents, Sessional Paper Number 1 of 2005 and the United Nations Convention on the Rights of Persons with Disabilities (2006), emphasized special education and the right for students with disabilities to attend schools of their choice. These recommendations resulted in varying degrees to government action on the education of students with disabilities in the country. More boost to the course of education for students with disabilities in Kenya has come from the passage of the Persons with Disabilities Act (2003), the declaration of Free Primary Education (2003), declaration of Education For All (2003), the passage of the Children Act (2003), and the various global frameworks in education that the government has been party to. These include the Universal declaration of human rights (1948), the United Nations Conventions on the Rights of the Child (1989), the African Charter on the Rights and Welfare of the Child (1990), the Salamanca Statement of 1994, and the Framework for Action on Special Needs Education (1999) (Mwangi, 2013).

The guidelines, goals and objectives posited, along with follow through activities conducted with regard to the education of students with disabilities in Kenya geared towards achieving the goals and objectives stipulated in the various documents addressing special education in the nation have certainly born results. Although data is not consistent on the exact number of students enrolled or the number of special schools and units existing in the country (Cherono 2003; Muuya, 2002; & Kiarie 2007), the information available shows that the field of special education in Kenya continues to grow. Data from the government’s Ministry of Education (2008) shows an increase of 123,111 in the number of students receiving special education in Kenya from 84,650 in 2002 to 207,761 in 2007. The number of those receiving special education services in the country increased to 221,995 in 2008. The number of special education institutions in the country increased from 926 in 2002 to 1579 in 2008. More recent data indicates that 3,464 special needs institutions exist in the country, 54.1 % of which are in primary education, 38.2 % in Early Childhood Development Education (ECDE), 3.4 % in Non-formal Education Institutions, and 4.3 % in secondary education. Of these, 2,713 are integrated institutions while 751 are special schools (Kenya MOE & MOEST, 2012).

The above numbers, though impressive, when placed in the context of the estimated prevalence of disability in children and youth in the country, create a rather dismal picture. While the World Health Organization (2006) notes that about 10% of the population of Kenya are people living

with a disability, the UNESCO report on education (2006/2007) notes that about 25% of the estimated 3 million Kenyans with disabilities are school age children, a statistic that shows that a majority of school age children with disabilities in Kenya are not receiving educational services at all. Factors such as problems with the identification of children with disabilities, shortage of teachers and support staff for the special needs population, and grossly inadequate funding, among others, are to blame for the low rate of participation of students with disabilities in education in the country (Wanyama, 2012).

The National Policy Goals and Policy Objectives

Fortunately, the Kenya National Special Needs Education Policy Framework targets many of the above factors as areas in need of improvement. The policy identifies plans to improve access to the educational environment and curriculum for students with disabilities in Kenya. It targets for improvement the areas of assessment, identification, and early intervention along with provision of specialized facilities and technology. In this policy, the government articulates its plans with regard to improving special education in the areas of personnel training, advocacy and creating awareness of disability issues, facilitating inclusive education and curriculum development as pertains to students with disabilities. Due to this policy, there is continued activity on the part of the Ministry of Education in order to achieve its various objectives with regard to the education of students with disabilities in the country. For example, recognizing the need for more government financing of education for students with disabilities, the Ministry of Education recently recommended increased government funding for this sector. The funding is to go towards development and procurement of specialized instructional materials and equipment and meet the needs of the country's Institute of Special Education, among other uses.

The future for special education in Kenya looks bright. With the passage of the National Special Needs Education Policy Framework, the activities of the advocacy and parent organizations for individuals with disabilities in the country, volunteer activities of individuals and groups, and the new Constitution (Government of Kenya, 2010) with its various articles on education, one can safely expect further progress in special education in Kenya. The Constitution of the country provides for free and compulsory basic education as a human and social-economic right for every Kenyan child, recognizes the right to an education for minorities and marginalized groups, and requires that the government take measures to ensure that the youth access relevant education and training, all activities geared to boost enrolment for students with disabilities.

As discussed below, in contrast to the Kenya situation, the case of the development of special education in the United States underscores the importance of comprehensive policy along with follow through activities to advance the field of special education. The comprehensive special education policy of the United States stands in stark contrast to the fragmented guidelines, goals and objectives that have guided special education in Kenya for so long in the absence of a comprehensive policy.

Special Education Policy in the United States

In spite of the many criticisms leveled against special education in the United States (e.g., Berman, Davis, Kauffman-Frederick & Urion, 2001; Finn, Rotherham, & Hokanson, 2001; Lyon, Fletcher, Shaywitz, Torgesen, Wood, Schulte & Olson, 2001; & Townsend & Patton, 2001), the advances in results experienced by children with disabilities and their parents testify to the progress the country has made in the field of special education so far. Policy on special education in the United States of America has emerged partly from litigative activity, judicial rulings, and federal legislative action. In the United States, policy on special education is articulated in the landmark act, the Individuals with Disabilities Education Act (IDEA), formerly the Education for All Handicapped Children Act (EHCA), enacted in 1975 and reauthorized every couple of years. It is the six principles of the IDEA that guide, guard, and go a long way in guaranteeing education for every student with a disability in the country. A brief examination of the state of education for students with disabilities in the United States prior to the enactment of this landmark law is imperative to clarify its role and necessity.

Background to the EHCA 1975

In the United States, efforts to educate students with disabilities have a long history. However, in the 1950s and 1960's, there was a step up of activity in this area. In this period, family and professional associations advocated for the rights of children with disabilities in response to which the government took various actions. The government allocated funds to professionals to develop methods to work with children with disabilities. In addition, the federal government passed legislation that supported the development and implementation of programs and services to meet the needs of these children and their families. Two laws, PL 85-926 (1958), the National Defense Act, and PL 86-158 (1959) provided training for teachers and other professionals who worked with students with mental retardation while PL 87-276, the Special Education Act of 1961 provided training of teachers and professionals for the deaf and hard of hearing. The Elementary and Secondary Education Act, PL 89-10, and the Amendment to title 1 of the Elementary and Secondary Education Act, PL 89-313, funded states' education for children with disabilities while the Handicapped Children's Early Education Assistance Act of 1968 (PL 90-538) provided funds for early childhood intervention for children with disabilities (Heward, 2009; Martin, Martin, & Terman, 1996; Jimenez & Graf, 2008).

In spite of the foregoing activity in the field of education for children and youth with disabilities, literature reveals that prior to EHCA of 1975 about one million children with disabilities in the United States were not receiving educational services at all (Alper & Ryndak, 2002). Some were deemed unable to benefit from an education and therefore denied the opportunity to receive it. Murdick, Garin, and Crabtree (2006) note that before the 1970's, laws in many states permitted public schools to deny enrollment to children with disabilities. The few students with disabilities served, more often than not, received inappropriate services in environments that were restrictive and usually at their parents expense. This situation was disrupted by, among other factors, the civil rights movement, society's advancement in its understanding of the concepts of equality, freedom, and justice, the spread of the ideas of democracy, individual freedom, and egalitarianism across America and Europe, and the changing perceptions and attitudes about individuals with disabilities (Gargiulo 2010; Hallahan & Kauffman, 2012; & Heward 2009). These factors facilitated an environment that resulted in court cases in the area of education of students with disabilities, geared towards safeguarding the right to education and fair treatment for this population. An examination of the litigation on education for students with disabilities during this period shows that a number of lawsuits brought before the courts involved exclusion, misclassification, and discrimination against them. While some children and youth with disabilities were outright excluded from a free appropriate public education, an act that was usually supported by courts in this period, others were classified as having disabilities when they did not have them while other children were misdiagnosed and misclassified. All these practices violated the students' right to an education under the United States Constitution and motivated advocacy for change.

One of the earliest lawsuits that resulted in a judicial ruling that impacted education of students with disabilities in the United States is the anti-racial segregation case, *Brown vs Board of Education, Topeka Kansas*, in 1954 (Hardman, Drew, & Egan, 2005; Patterson, 2001; Wilson, 1995). In this case, the Supreme court ruled that schools may not segregate or discriminate by race, hence renouncing the "separate but equal" practice of the day with regard to educational services for minority and Caucasian students. Seizing upon the ruling of this case and its implication on the practice of segregation in the provision of educational services to children from diverse racial backgrounds, advocates, parents, and civil rights lawyers for students with disabilities argued against segregation and denial of appropriate public educational services for students with disabilities. Just as the court ruled it unacceptable to segregate students on the basis of race, they argued, it was equally unacceptable to segregate against students on the basis of any other factor. In the period 1960 through the 1970's, this line of thinking resulted in several court cases and rulings that helped the course of education for students with disabilities. Among these court cases were the *Mills vs Washington DC Board of Education* in 1972 and the *Pennsylvania Association for Retarded Citizens (PARC) vs Commonwealth of Pennsylvania* in 1971 (Hallahan, Drew, & Egan, 2005). The later challenged a state law that denied public school education to certain children deemed unable to profit from a public

school education. As a result of these two court cases, the courts ordered the Commonwealth of Pennsylvania and the District of Columbia to provide a free appropriate public education to all students with disabilities, educate students with disabilities in the same schools as students without disabilities, and put into place certain procedural safeguards so that parents of students with disabilities could challenge schools that did not live up to the court's orders. Every child 3 and over with a disability had to have an Individualized Education Program (IEP), a document detailing the appropriate education for that child and containing, among other information, specific educational goals for the child along with the time line for meeting those goals (Hardman, et.al.,2005).

A detailed review of the many court cases and court rulings that positively impacted the progress of education of students with disabilities in the United States during this period is beyond the scope of this article. Suffice it to say that the rulings in *PARC vs Commonwealth of Pennsylvania* and *Mills vs Washington DC, Board of Education*, among others, contributed to the birth of policy on education for this population in the country. The rulings in these two court cases influenced the federal legislation, Education for all Handicapped Children Act (PL 94-142) so much that the same language was used in the principles articulated in it. Through this Act, the efforts of parents, professionals, and organizations for people with disabilities were finally rewarded with the enactment of a federal legislation and funds that would guarantee students' rights to an education and help states finance the same.

The Individuals with Disabilities Education Act (1990)

The EHCA, later renamed the IDEA, and most recently reauthorized in 2004 as the Individuals with Disabilities Education Improvement Act, encompasses the policy on education of students with disabilities in the United States. This legislation has guided the practice, process and progress of education for this population in the country for the last nearly four decades. The IDEA, more recently, the IDEIA but more commonly (as in this paper), referred to as the IDEA, is anchored on the six principles of zero reject, parent and student participation, nondiscriminatory evaluation, appropriate education, procedural due process, and least restrictive environment. Adherence to these principles ensures no student with disabilities, however significant their disability, is denied an appropriate education at public expense in the least restrictive environment; that assessment to determine eligibility for special education services is conducted in an appropriate manner that is free of discrimination; that parents and students can participate in the educational process and that they have avenues to resolve problems with service providers as necessary. With the implementation of IDEA's zero reject, the number of students with disabilities receiving educational services in the United States increased from 4.5% of all children enrolled in school in the school year 1976-1977 to 7.7% in the 1993-1994 school year, a 45% increase in the special education population (Lewit & Baker, 1996). Data from the United States Department of Education (2007) indicates that 12% of the school age population (6-17) in the nation are children with disabilities in special education and that the number of students receiving special education services in the nation has risen from 3485088 in 1976 to 6598853 in 2010, an increase of an overwhelming 89% (U.S Department of Education, 2010). Due to its principle of least restrictive environment which requires that students with disabilities be educated with those without disabilities to the maximum extent appropriate, many students with disabilities are included in regular education classrooms because the IEP, the guarantee of an appropriate education for the child with a disability, provides the members with an opportunity to assess the feasibility of a general education environment to meet the educational program of each child with a disability before they consider a more restrictive environment. Thus, this policy provides that students with disability are educated in as "normal" an environment as possible. Currently, over 50% of all students with disabilities in the United States are educated in regular education classrooms 80-100% of their school day (U.S Department of Education, 2011). These students are educated in the regular education classrooms in their home schools with supports and services and they are only removed where education in this environment, even with supports and services, is not feasible. Differentiated instruction, where teachers vary the various instructional aspects in order to reach students of differing learning abilities, along with teacher aides and aspects of the universal design for

learning, are among the supports and services utilized to ensure the progress of students with disabilities in accessing and mastering the general education curriculum.

Along with access to educational services and inclusion of students with disabilities in both the extracurricular activities and social interaction with their peers, it is important to note that the IDEA addresses a wide range of issues concerning the education of this population in the country. For example, through the Child Find policy, many children with disabilities have been located, evaluated and provided services as necessary. Child Find is a component of the Individuals with Disabilities Education Act (IDEA) that requires states to locate, identify, and evaluate all children with disabilities between the ages of birth to 21, who are in need of early intervention or special education services. The comprehensive special education policy in the United States along with follow-up activities to ensure adherence by schools, school districts and states, has ensured that students with disabilities are included in every educational reform or initiative.

In the context of the No Child Left Behind (NCLB) (2001), for example issues of access to and progress in the general education curriculum content for students with disabilities alongside their peers are of utmost concern to parents and students, special educators and other professionals, advocates and stakeholders. The NCLB is a recent education act that supports standards-based education reform and emphasizes high expectations and measurable goals in the education of all students. Ideally, through the NCLB, the general education curriculum guides all students' learning and state and other assessment content for all students, including those with disabilities, is aligned to the general education curriculum content (Turnbull, Turnbull, Wehmeyer, & Shogren, 2013). Although assessment data for students with disabilities (National Center for Educational Statistics, 2011) show some improvement in their test of academic achievement results, for example in 2009, it is worth noting that academic achievement is only one factor in increasing the chances of success in life for students with disabilities. Nevertheless, the inclusion of these students in the evaluation of student progress and achievement through annual state and district assessments that is mandated by NCLB aims to improve their educational results and is in line with IDEA's perspective that improving educational results for this population is key to realizing the nation's goals of full participation, independent living, economic self-sufficiency, and equal opportunity for all individuals with disabilities. Most recently, state curriculum and other changes and updates to align to the Common Core State Standards (CCSS) have taken into consideration issues of students with disabilities. Effort to ensure optimum participation of the special education population in this educational "reform" through implementing the universal design for learning along with supports and aids, accommodations and modifications necessary for the success of these students continue to engage the minds of many professionals in the special education field.

Though much remains to be done in the field of special education as a whole, it is clear that through the comprehensive special education policy and follow-through activities on behalf of students with disabilities in the United States, many children and youth with disabilities have gained access to the educational environment and to the curriculum and due attention is directed toward their educational outcomes. Granted data quantifying the number of students with disabilities receiving services may not necessarily show the adequacy, appropriateness, and functionality of services provided to the students, it is safe to say that the achievements of special education in the United States have increased the possibility of achieving equal opportunity, full participation, independent living, and economic self-sufficiency, for this population. In this context, the number of students with disabilities who are receiving educational services, the type of services received along with participation and progress in the general education curriculum become vital indicators of development in the field of special education in any country. It is from this perspective that the role of policy and follow through activities in the development of special education in Kenya are examined.

Conclusion

As is clear from the status of special education in the United States, a comprehensive and clear national policy along with follow through on such policy are necessary for adequate progress in the

field of special education in any country. It is crucial to the development of special education in Kenya that the country's Ministry of Education has compiled the various stipulations, guidelines, and objectives from parliament Sessional papers, Education Committees, and Task Forces regarding education of students with disabilities into a comprehensive national policy on special needs education. This step has the best intentions of the country behind it and is bound to facilitate a consolidation of the effort by various organizations in the country for the benefit of students with disabilities, to give clear direction to this field with the full force of the government behind it for the benefit of students with disabilities in the country. Successful implementation of this policy is likely to enhance access to education of children and youth with disabilities in Kenya and improve the quality of the same.

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