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## Education Marginalization in the Kenyan Conflict-Affected Areas: Human Capital Theory and Rights-based Perspectives

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### Abstract:

*Education has been deemed as a critical weapon to curbing the increasing levels of armed conflicts as it liberates the mind and exposes individuals to wider social and economic opportunities. Yet, lack of it not only causes individuals and countries to lag behind due to lack of requisite skills necessary for shaping human capital, but also it amounts to human rights violation since it is regarded as a basic right.*

*This article analyses how education marginalisation has occurred in the conflict-affected areas in Kenya. The article also examines how conflict, reversely, has exacerbated education marginalisation leading to low development due to inadequate human capital and violation of human rights. Through review of secondary data sources - empirical studies and scholarly articles-findings show that although there are no direct attacks on schools, the effect of conflict within the community greatly affect teachers and learners thus lowering their chances of going to school and in the long run affecting the learning outcomes. Deprived of education, and aggravated by scarce natural resources, the population in conflict-affected areas cannot access meaningful employment opportunities thus sustaining the conflict.*

**Keywords:** education marginalization, conflict-affected, human capital, human rights, arid and semi-arid lands

### 1. Introduction

With about eighty per cent of the reported 113 million out-of-school children living in conflict-affected or post-conflict regions (Smith & Vaux, 2003), education in conflict-affected areas has consequently received great attention (UNESCO Institute for Statistics, 2010); an evidence of the devastating effect of conflict on access to education. With the persistent conflicts in Kenya, the government has put in place several policy frameworks to counter its effects on education. Some of the measures directly relate to education and others to the community's livelihood.

Conflicts in Kenya have been associated with the pastoralist and nomadic communities due to scarce natural resources and aggravated by environmental and ecological and political aspects in the Arid and Semi-Arid Lands (Oucho, 2002; Huho, 2012; Lanyasunya, 2012; Gakuria, 2013; Ombati & Ombati, 2015). A conflict mapping and analysis study conducted by UKaid in 2009 established that natural resources are the main cause of conflict in Kenya with land administration, politicization of land disputes and the inadequacies of land administration, creation of internally displaced persons, water, agro-pastoralist conflicts and pastoralist conflict being at the top of the list (UKaid, 2009).

According to Justino (2014), education systems in conflict-affected regions is greatly affected by the imbalance between supply-side efforts, more enabling environment and the demand-side forces that keep children away from school which can lead to educational marginalization if not addressed. Impacts of conflict on supply in education, according to UNICEF (2016) include destruction of educational infrastructure which impacts access and quality of education, reduction of teaching staff, population shifts due to displacement (meaning that education is not supplied where it is needed) while the impacts on demand include pupils/student not attending school (as they become unsafe) and students forced to take up arms and become combatants. Addressing these educational barriers would call for a new thinking, design and implementation of education alongside economic and stability policies.

According to the 2010 UNESCO report *The hidden Crisis of Conflict*, since conflicts vary in magnitude, nature and localization, literacy rates, children's educational access and participation and the average years of schooling is greatly affected (UNESCO Institute for Statistics, 2010). Analysis of the survey data showed that 76 per cent of the countries affected by conflict had conspicuous impacts of conflict at both national and local level. Examining cohorts of school-going age at a time of conflict, the study established that most countries had discouraging trends of lower educational attainment that persisted over time due to the inability of the children to resume schooling, and this ultimately affects a generation and the overall productivity of the population.

This paper discusses education marginalization in conflict-affected areas particularly those occurring in the ASALs due to limited natural resources. It examines how conflict has affected access to education, participation and retention, and ultimately the employability and livelihoods of the people residing in those areas. The paper begins with an introduction of the problem and goes on

to describe education in Kenya, narrowing down to the Kenyan conflict-affected regions. Using the Human Capital Theory, the paper discusses how education marginalization in the target areas has affected economic development and growth by denying the population the requisite skills to take up productive employment in the development sectors. Further, using a Human Rights-Based Approach, the paper discusses how education marginalization has bred violation of human right to education and deprived the population of essential social service. In each of the theories, criticisms and recent developments are discussed and how they are likely to help address education marginalization in conflicting areas. Lastly, the paper concludes by highlighting the key ideas and issues discussed and the way forward.

## 2. Education in Kenya

The Government of Kenya recognizes education as a constitutional right of every citizen and a powerful tool for social and economic development (Otieno & Colclough, n.d.). Recognizing education as key to the development and protection of human rights and democratic structures/institutions, the Kenyan government has demonstrated its commitment to the realization of universal access to basic education as prescribed in the Education for All initiatives and the UN Millennium Development Goal by continuously expanding educational opportunities since the attainment of independence, and this is marked by the high public spending in the sector (Lakin & Kinuthia, 2015).

In 2009, about 73 per cent of the government's social sector spending and approximately 40 per cent of the national recurrent expenditures was particularly going to education. In their analysis, Lakin and Kinuthia (2015) found out that in the year 2013/14 education received 26.1 per cent of sector share of the total gross estimates while in 2014/15 it remained the same. A deeper analysis revealed that education had a much higher share of actual spending compared to infrastructure. The government hopes that by allocating a fifth of public spending to education will also push up secondary enrolment rates in the country and improve access and quality across the board (Republic of Kenya, 2014).

Kenya's basic indicators in education, according to the Republic of Kenya (2014), have been moving in the right direction over the last seven years and compare well with the region. The net primary enrolment ratio, for example, had reached 84% by 2012. It is also competitive within sub-Saharan Africa, where the enrolment ratio was 76% in 2010 (Republic of Kenya, 2014). The global figure was 89% in the same year. For secondary education, the net enrolment ratio at this level stood at 50% for the 2008 to 2012 period. This is attributable to the Subsidized Secondary Education and Free Primary Education initiatives by the Kenyan government geared towards achieving universal education by 2015. Although evidence shows that much has already been achieved in terms of access to education in Kenya, national statistics have masked serious challenges of access at the county and local level, making it hard to achieve education for all especially in the conflict-affected areas that majorly lie in the Arid and Semi-Arid Lands (Republic of Kenya, 2014).

## 3. Education in Kenyan Conflicting Areas

According to a report commissioned by the Department for International Development (UK), education responses in conflict-affected areas have not received much attention and tend to be compartmentalized as a 'humanitarian' issue, which runs the risk of not being part of longer term strategic responses (Smith & Vaux, 2003).

Although early policy documents in Kenya (for example, the Sessional Paper No.1 of 2005, Policy Framework for Nomadic Education) provide for mobile schools in order to enhance school access and participation in the conflict-affected areas, pastoral communities and generally in the ASALs, the implementation of the same has not been effective (Ngugi, 2016). The mobile school system, as envisioned in the policy framework, was aimed at adapting to the instabilities of the conflict-affected and nomadic contexts by taking education services to the children thus promoting access, participation and continuation whenever schooling is disrupted (Ngugi, 2016).

The key counties affected by conflicts in Kenya, according to Mokuia (2007), include Tana River, Marsabit, Isiolo, Moyale, Turkana, Kitui, Samburu, Garissa, Wajir, Mandera, West Pokot and Baringo counties. The table below presents the key counties where frequent conflicts occur and their nature:

Counties/Areas	Nature of conflict
Marsabit/Samburu	Samburu and Rendile fight over grazing land and water resources
Tana River	Pokomo and Orma pastoralists fight over access to grazing land and water along River Tana.
Kitui	Kamba and Somalis from the neighbouring counties, Wajir and Garissa, fight over pastures.
Laikipia	Samburu, Turkana and Pokot fight over pastures and also loss of grazing land to game reserves and private ranches
Isiolo/West Pokot/Turkana/Baringo	Cattle rusting and raiding
Mt.Elgon, Baringo, Mandera, Kajiado	Fight over land and borders

Table 1

While mostly the conflicts/attacks are not directly on schools, Wangechi (2013), Siele, (2014) and Adan & Orodho, (2016) assert that education in Kenya greatly suffers as pupils and teachers stay out of school due to insecurity. Boys of school-going age are forced to take up arms and engage in fights as they are regarded as community warriors while the community starts living in fear of attack and

teachers and learners fear going to school as they might be attacked enroute, or the schools have become home to internally displaced persons (IDPs) who have fled their homes.

A study carried out by Ahmed (2015) found out that displaced children lacked support provided by educational structures and there was disruption of economic and social life of the pupils whose families were displaced. The study further established that teacher displacement during conflict negatively affected pupils' performance in their national exams as the fear of physical attacks and sexual violence kept teachers away from school and out of class and this perceived to affect the quality of education. Findings on the effects of destruction of sources of livelihood on provision of quality education revealed that households lost their sources of income and therefore could not support their children's education in terms of meeting indirect costs since education at primary level in Kenya is free (Ahmed, 2015).

Beyond the immediate impacts on education such as disruption of schooling, loss of lives and displacement of people, UNESCO (2010) has reported conflict as a source of poverty, inequality and economic stagnation. The next section theoretically analyses education in conflict-affected areas in Kenya and how conflict exacerbates marginalization, inequality and underdevelopment.

#### 4. Education Theories

With its ambitious target of making the country an industrialised economy by 2030, the Kenyan government is hoping to enhance the development of the human capital – through equitable and quality education- necessary for steering the various economic sectors (Otieno & Colclough, n.d.). In the international context, education has been regarded by UNESCO (2014) as one of the most essential services as it is associated with many development outcomes and interacts with other factors to contribute to and/or influence cultural, social, economic and political transformation of any country. This paper seeks to contribute to the debate around the rights to education and its role in shaping the human resources of a country, specifically in the conflict-affected areas in Kenya. In essence, the paper will use the Human Capital Theory (HCT) and the Human Rights-Based Approach (HRBA) lenses to analyse education in the conflict-affected areas, and also examine criticism of the theories and its implication on education.

##### 4.1. Human Capital Theory

Although the concept human capital is more than two centuries old, according to Mincer (1958), the incorporation of the theory into economic analysis and research is a new development. Emerging in 1776 from Adam Smith's work, the concept has evolved overtime and has been featured in the works of different economists and scholars (for example, Fisher, 1897; Schultz, 1961; Becker, 1964; Sakamoto & Powers, 1995; Psacharopoulos & Woodhall, 1997). The human capital theory assumes that education, whether formal or informal, is a prerequisite for economic development of a country (Olaniyan & Okemakinde, 2008).

According to (Mincer, 1981), human capital theory is anchored on the premise that training and education increases the productivity of workers by imparting requisite skills and knowledge that leads to increased future income and consequently lifetime earnings among workers. The theory thus looks at the acquired capacities which are enhanced through education and through training, whether formal or informal, mobility and experience gained overtime in the labour market. In itself, education, whether formal or informal, is considered as the most important component of investing in human capital and that wages of a better educated and trained individual is usually higher than that of their uneducated or untrained peers (Becker, 1993). As quoted by Bold, Sandefur, Mwabu, & Kimenyi (n.d), Psacharopoulos asserts that "additional year of schooling increases wages by an average of 7.3 percentage points in Sub-Saharan Africa." In Kenya, the rate of return was 7.7% at primary level, 23.4% at secondary and 25.1 per cent of tertiary level (Manda, Mwabu, & Kimenyi, 2006: 12), and this can be lower in conflict-affected areas. In the Kenyan rural areas, where most conflicts occur due to scarce natural resources, "private returns to university education are lower than returns to secondary and college due to the structure of the labour markets and this is different from the urban areas where controlling for human capital externalities reduces private returns to primary education but increases returns to university education in the urban areas" (Manda, Mwabu, & Kimenyi, 2004: 2). The education status in the conflict-affected areas in Kenya compounded with the labour market forces aggravates the marginalization of these regions.

The human capital theory has been instrumental in justifying public expenditure or investments in school education and its associated activities involve costs and benefits which can be analysed as public or private economic decisions (Mincer, 1981). For example, the Kenyan government through its annual budgetary allocations has demonstrated its commitment to meeting its economic growth by the increasing investment in education especially in the areas of free primary education, free secondary education and teacher resource management and recruitment of additional teachers (Republic of Kenya, 2017). According to its Budget Policy Statement, the government allocated KSh. 339 billion, Ksh. 349 billion, Ksh.365.2 billion and Ksh.374.7 billion for the financial years 2016/17, 2017/18, 2018/19, 2019/2020 respectively, with both recurrent and development expenditures increasing each year. In conflict-affected areas, the Kenyan government under the Medium Term Plan I (2008-2012) and Medium Term Plan II (2013-2017), set aside the *ASAL and pockets of poverty grants* as funds tailored to augment the school projects and expenditure, though its success, according to Ruto et al. (2009), is yet to be realised.

The public expenditure on education, according to Mincer (1981), justifies the growth of social stock of the Kenyan human capital [leading to increased economic growth at the macroeconomic/national level] and the growth in individual stock of skills [leading to variations in terms of wage structure and income distribution] at the microeconomic level. As such, education is identified, by the Kenyan government, as one of key component in the social pillar of the Government's overall economic recovery strategy (Vision 2030). While (UNESCO, 2014) believes that education is the single biggest opportunity to close the gap between the poor and the rich, and to help those in chronic poverty to overcome cyclic and intergenerational poverty; the increased inequalities in income distribution widens the gap between the rich and the poor, and is aggravated by conflict. This has also been echoed by Bowles & Gintis (1975) and

Aikman and Unterhalter (2005) who believe that the human capital theory does not address or speak against injustices and inequalities that are manifested at the household and the workplace.

Besides the inability of the education to address income inequalities, critics have also questioned the relationship between education and economic growth, wondering whether education -for the sake of it- can translate to economic growth. In their article, Olaniyan and Okemakinde (2008) conclude that there is great need to focus on the responsiveness and the quality of the education offered to a population. Whilst in their Plan for Action (2006-2015), the African Union highlighted learning outcomes as key indicators of education quality and which depended on the physical and infrastructural resources, learning environment, teacher qualification, competence and motivation, teaching and learning materials; literature (for example, Wangechi, 2013; Ahmed, 2015), shows that conflict leads to destruction of school infrastructure, makes the learning environment unsafe for both learners and teachers, lowers teachers motivation and destroys teaching and learning materials thus lowering the quality of education. Therefore, the question is not whether the Kenyan children in conflict-affected areas are getting education, but the quality of that education; since it must be of a high quality for it to meet the skill-demands of the economy.

Although the government came up with a strategy to transform the conflict-affected regions in order to contribute significantly to national economic development (Republic of Kenya, 2004), the Sessional Paper No.1 of 2005 proposes reducing reliance on livestock through human capital development- which is the essence of education. Despite the policy document failing to clearly indicate how these will be achieved, UNESCO's analysis of *The Sustainable Development Goals begins with Education*, the development of human resources depends on improved literacy and skills, and ultimately the relevance and quality of the education offered to its populace (UNESCO, 2014). Conflict affects this in the long term, as the population [if it does not acquire quality education] is socially affected by illiteracy by lowering individual's ability to keep their children in good health, for example, through balanced diet, healthy birth spacing, good hygiene and disease prevention measures and encouraging their children to enrol and continue in school.

According to UWEZO (2012) not only do children from conflict-affected zones have the least access to school, they also show the lowest academic performance and levels of literacy and numeracy. While it requires creativity and innovativeness to build the required literacy levels and develop the necessary human capital in the conflict-affected zones, according to Omoeva, Hatch and Moussa (2016), limited resources and infrastructure, militarised populations and psychosocial trauma usually aggravates an already bad situation. This leads to ineffective development of students' personality and retarded learning process cumulatively resulting into poor quality learning outcomes in the conflict-affected areas (Adan & Orodho, 2016).

In order to effectively address the problem of educational marginalization in the Kenyan conflict-affected areas, it is therefore imperative to measure the impact of education on human capital and its contribution to economic growth. To successfully do this, the Kenyan government needs to move beyond the proportion of population with access to education into incorporating qualitative aspects in measurement. As proposed in the Organization for Economic Cooperation and Development (OECD) World Forum in 2009, the conceptual framework of human development should include both quantitative growth (access, retention, participation) and qualitative (relevance and quality) progress. Since this measurement, according to Dae-Bong (2009), is closely linked to international comparable statistics considering investment in human capital, quality adjustments and results of education especially at post-secondary level, the Kenyan government should also change the way evidence, regarding to human capital development through education, is gathered and progress monitored and evaluated in the conflict-affected areas.

#### 4.2. Rights-based Approach

Following the ratification of the Universal Declaration on Human Rights (UDHR) in 1948, education has since been recognized as a fundamental human right. In 2000, the international community agreed to the MDGs, which acknowledged education as an indispensable means for people to realize their capabilities and prioritized the completion of primary school cycle (UNESCO, 2014). In the post-2015 development agenda, the Sustainable Development Goals (SDGs) lay the emphasis on the centrality of education in achieving the other development goals (UNESCO, 2014).

The Constitution of Kenya 2010 recognizes basic education as a human right. Article 43(1) (f) of the Constitution acknowledges that every person has the right to education. Every child's right to free and compulsory basic education (comprising of pre-primary, primary and secondary education) is entrenched in article 53 (1), and is not subject to progressive realization – contrary to article 43.

In terms of regional and international treaties, conventions and declarations, Kenya is a signatory to the Universal Declaration on Human Rights (UDHR, 1948); the International Covenant on Economic, Social and Cultural Rights ratified of 1972; the Convention on the Elimination of All forms of Discrimination Against Women (CEDAW) of 1979; Convention on the Rights of the Child of 1989; Jomtien World Conference (1990); International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990); the African Charter on Human and Peoples' Rights (Banjul Charter) of 1992; Beijing Declaration and Platform for Action (1995); Dakar Framework of Action on Education for All (2000); Millennium Development goals (2000); Convention on the Rights of Persons with Disability (2006); as well as the Goals of the African Union. All of these treaties and conventions envisage education as a right to every Kenyan citizen.

Ratifying the above treaties, conventions and declarations demonstrates Kenya's commitment to protect the right to basic education and now form part of the laws of Kenya; legally binding the State. However, in spite of the impressive legal and policy frameworks guaranteeing the Kenyan children of basic, free, quality and compulsory education, hundreds of school-going age children in conflict-affected zones are denied their right to education due to loss of lives, disruption of learning as both teachers and learners flee away, loss of livelihood, among other barriers. In the long term, according to UNESCO (2010: 143), "conflicts affect the education through: a) permanent drop-out of teachers thereby lowering of the quality of teachers; b) persistent demotivation and distraction of teachers, students and staff by fear or trauma, reducing the quality of education provision and students' ability to learn; c) falling recruitment of



staff, leading to teacher shortages; d) falling enrolment of students, lowering access and hindering attempts to achieve Education for All; e) falling attainment of students and; f) long-term damage to and prevention of repair of infrastructure thus reducing access.”

The right to education has been analysed and summarised by Katarina Tomasevski, a special rapporteur for the United Nations. According to Tomasveski (2001), in the *Right to Education Primers No.3*, each government is obligated to ensuring right to education by every citizen; making education available, accessible, acceptable and adaptable, commonly referred to as Tomasevski's 4-A scheme.

#### 4.2.1. Availability

Although the Kenyan government in 2003 made primary education free, and in 2008 subsidized the secondary school education, indirect costs continue to hinder many children in conflict-affected areas from accessing education (Siele, 2014). Further, implementing the law on compulsory education in Kenya has been affected by many socio-economic, cultural, environmental and political factors, including conflicts (Lanyasunya, 2012). While teachers, according to Katarina (2001) should be well trained, receiving domestically competitive remuneration and working in appropriate conditions, provision of such in the Kenyan conflict-affected areas has been a challenge; the working conditions, according to Ndegwa (2016) are not favourable for trained teachers in these areas due to insecurity, lack of teaching and learning materials and poor infrastructure lead to demotivation and subsequently performing poorly or entirely exiting the profession.

A study conducted by Wangechi in (2013) in Nakuru County, Kenya, revealed that during conflicts, teachers fled schools, learning resources were burnt down, children dropped out of schools in order to head their household while others were orphaned due to conflict thus affecting their ability to acquire education. A different study by Siele (2014) established that conflicts increased pupil and teacher absenteeism for fear of being attacked and reduced the concentration levels of pupils in class as they were fearful while others suffered trauma. The study established that majority of the parents could not afford to meet the indirect educational costs due to destruction of property and livelihood, thus unable to keep their children in school.

For educational institutions to function effectively, according to Katarina (2001), it depends upon numerous factors, including safety, decent classrooms and good sanitation facilities, safe drinking water and facilities such as a library, computer facilities and information technology for both girls and boys. In the conflict-affected areas in Kenya, both the government and non-governmental actors have made significant contribution through provision of temporary learning spaces and feeding programmes in times of conflicts and ultimate strengthening of education sector cluster committees (Republic of Kenya, 2014); though these initiatives are not sustainable as most of the non-governmental players can withdraw their support any timesince they depend on donor funding.

#### 4.2.2. Accessibility

According to Katarina (2001), educational accessibility means that the system is not discriminatory and that education is accessible to all (school-going age) children and concrete steps are made to include the most marginalized. Due to the vastness of the land in ASALs and conflict-affected areas, schools are miles away from each other and children spend much of day walking to and from school, considerably reducing the number of hours they are actively engaged in classroom learning (Huh, 2012). Although the Kenyan government introduced mobile schools in the ASAL areas, including the conflict-affected zones, the implementation of the same has not been successful (Ngugi, 2016; Ruto, Ongwenyi, & Mugo, 2009). According to Katarina, there is clearly substandard provision of education services in rural areas if a child has to walk 10 miles to get to the nearest school, or if travelling to school is unsafe; typical of the conflict-affected areas in Kenya.

According to Wachira (2015), ethnic conflicts breed insecurity which makes the schools unsafe for learning, consequently reducing pupils' access to education. In such environments, most sources of income are destroyed; making parents unable to support their children's education and the majority who flee their homes to safer regions have their children's education disrupted. In order to promote educational access by the disadvantaged groups and children in conflict-affected areas, the Kenyan government has adopted a multi-sectoral and multi-partnership approach by promoting collaboration between civil society and the private sector in improving opportunities for the out-of school children through the 'ASAL and pockets of poverty' and the mobile schools initiative (Republic of Kenya, 2014), though much still remain to be done.

#### 4.2.3. Acceptability

In the conflict-affected areas, acceptability is greatly affected by the drastic shortage of textbooks and other relevant learning materials. As indicated by Wachira (2015), lack of teaching and learning materials, such as textbooks, chalkboards and accessories, and insufficient number of qualified teachers significantly affect the teaching and learning process hence the unacceptably low standards of education in the conflict-affected areas. Further, due to attacks and the harsh environmental and climatic conditions in these areas, majority of the trained teachers are unwilling to teach in such conditions, thereby depriving the area of skilled labour force. According (Save the Children, 2013), for every teacher who is attacked, scores of children are affected. Given the centrality of teachers in any learning process, a reduction in numbers of qualified teachers in conflict-affected areas has significant impact on children's learning outcomes, transition to higher education and ultimately employability to meaningful opportunities.

According to Save the Children (2013: 7), "a single attack on a school can keep hundreds of children out of the classroom, potentially destroying a community's only place of learning." Even if conflict within the community does not result in attacks on schools, schooling is usually disrupted thus minimising the chances of completing syllabus. In such contexts, students/pupils might be exposed to both physical abuse and psychological trauma thus affecting their ability to concentrate in class and consequently the learning outcomes. "The long-term consequences of a prolonged time out of school, and permanently dropping out, translate into a loss of

opportunities for young people living through conflicts” (Save the Children, 2013: 8). Evidence shows that [quality] education can help promote social cohesion within a community while deprivation of the same can lead to social and economic exclusions – factors that sustain and reproduce violence and conflict.

#### 4.2.4. Adaptability

In the conflict-affected areas, education should adapt to suit the context by addressing the changing needs of the society and constantly challenging inequalities. Education in Kenya is compulsory up to Standard 8 (completion of primary school) which usually covers age 13 (as entry to Standard One requires minimum age of 6). Since the minimum working age is 18 years, those who range between 13 and 18 are left vulnerable to economic exploitation. Notably, there are high numbers of children who are out of school in the Kenyan conflict-affected zones (Republic of Kenya, 2014), and government’s failure to take into account the out of school children, and enhance their attendance, amounts to violation of their rights.

Ideally, education should meet and enhance the human rights of children through, for example, enhancing their ability to gain meaningful employment, prevent conflict and ultimately avoid socio-economic exclusion. However, in the conflict-affected zones of Kenya, boys are engaged in child labour to provide for their families while girls undertake domestic work which jeopardizes their life as they become vulnerable to early marriages and teenage pregnancies (Ngugi, 2016; Ndegwa, 2016).

Evidence shows that hundreds of Kenyan children are out of school due to conflicts (for example, Okilwa, 2015; Wangechi, 2013; Ahmed, 2015), and this has been aggravated by lack of a clear strategy to return out-of-school children to school. Displaced children, according to Ndegwa (2016), find it hard to enrol in new schools since their families face greater poverty or may lack proper documentation necessary to enrol them while loss of livelihoods during ethnic conflicts is a big hindrance to access to education. There is need, therefore, for the government to provide for a framework to return out-of-school children back to school, particularly in the conflict-affected areas, taking into account the prevailing contextual conditions.

### **5. Criticism of the Rights-based Approach**

The Kenyan population affected by conflict should ideally be given the top priority, but the principle of ‘progressive realisation’ under Article 43(1) (f) of the Constitution of Kenya means that all the rights cannot be realised at the same time or in the same place, and this contravenes the principle of ‘indivisibility’ of human rights. This begs the question, ‘is it logical for a government to provide education to a population that has been wiped out by bandits in the name of fulfilling the right to education?’ Closely related to this criticism is the perceived rigid expression of dissatisfaction by the marginalised and the disempowered which generally uses legal terminology and confrontational tone. In fact, critics of the rights-based approach believe that the language used in the approach is highly confrontational and therefore recommends the needs-based approach (Katsai, 2008).

### **6. Conclusion**

In the recent half a decade, conflicts in Kenya, especially those triggered by limited natural resources have increased unprecedentedly, thereby limiting education access, retention and transition by children and significantly affecting the learning outcomes. As already seen in this paper, lack of provision of education to children in the conflict-affected areas not only amounts to violation of human rights- as envisaged in the Constitution of Kenya 2010- but also deprives the region’s population of essential public good thereby limiting their individual and collective socio-economic development, thus keeping them educationally marginalized.

It is imperative therefore, for the government and stakeholders, to ensure equitable access to [quality] education by children in conflict-affected areas in Kenya as this can help mitigate some of most severe consequences of conflict, and ultimately break the intergenerational poverty and violence through provision of safe and supportive spaces that promote pupils’ educational and socio-economic development.

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