



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT

NATIONAL ASSEMBLY

THE HANSARD

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Wednesday, 2nd November 2022

The House met at 2.30 p.m.

[The Speaker (Hon. Moses Wetang'ula) in the Chair]

PRAYERS

Hon. Speaker: Hon. Members, we have quorum. Therefore, we can transact our business.

HOJA

KUBUNIWA KWA BARAZA LA KISWAHILI LA KENYA

Kwamba, tukitambua Kifungu cha 7 cha Katiba ya Kenya kinabainisha Kiswahili kuwa lugha pekee ya kitaifa, na pia lugha rasmi pamoja na Kiingereza, na aidha kwamba Serikali ina wajibu wa kulinda, kuendeleza na kukuza matumizi ya lugha za kiasili za watu wa Kenya; kuwa Vifungu vya 119 na 137 vya Mkataba wa Uanzilishi wa Jumuiya ya Afrika Mashariki vinawajibisha dola za Afrika Mashariki kustawisha na kuendeleza Kiswahili kama lugha ya mshikamano wa nchi wanachama; kwamba Mkutano wa 21 wa Marais wa nchi za Afrika Mashariki uliridhia Kiswahili kuwa moja ya lugha rasmi za Jumuiya ya Afrika Mashariki na kuwajibisha Tume ya Kiswahili Afrika Mashariki (East African Kiswahili Commission) kuwezesha kukoleza matumizi ya Kiswahili katika kanda hii; na kwamba Kiswahili ni moja ya lugha rasmi za Umoja wa Afrika, na kwamba Umoja wa Mataifa kupitia UNESCO umetenga kila Julai 7 kuwa Siku ya Kiswahili duniani; tukifahamu nchi ya Tanzania iliunda Baraza la Kiswahili la Taifa (BAKITA) mwaka wa 1967 na Zanzibar ikaanzisha Baraza la Kiswahili la Zanzibar (BAKIZA) mwaka wa 2004 kwa madhumuni ya kukuza, kuimarisha na kuendeleza Kiswahili eneo la Tanzania bara pamoja visiwa vya Zanzibar; ikifahamika Kiswahili ni lugha asili kwa jamii za Mkoa wa Pwani nchini Kenya na pia Wakenya wengi ni wazungumzaji kwa Kiswahili; tukijua lugha ya Kiingereza ina nguvu sana katika mawasiliano rasmi na hivyo kuchangia kudhoofika kwa lugha yetu ya Kiswahili; tukitambua uamuzi wa mkutano wa tatu wa Baraza la Mawaziri wa Kenya uliofanyika tarehe 14 Agosti 2018 uliodhinisha kubuniwa kwa Baraza la Kiswahili la Kenya kulingana na Kifungu cha 137 cha Mkataba wa Uanzilishi wa Jumuiya ya Afrika Mashariki haujatekelezwa; Bunge hili linahimiza Serikali Kuu kupitia Wizara ya Michezo, Utamaduni na Mirathi, kwa ushirikiano na vyombo vya kitaifa na vya kibinafsi vinavyohusika na uboreshaji wa lugha ya Kiswahili kuanzisha rasmi Baraza la Kiswahili la Kenya na kuzindua mikakati, mbinu na sera mahususi zinazohitajika kukuza na kuendeleza lugha ya Kiswahili.

*(Hoja ilitolewa na Mhe. Yusuf Hassan
2.11.2022 – Kikao cha Asubuhi)*

(Mjadala ulihitimishwa 2.11.2022 – Kikao cha Asubuhi)

Hon. Speaker: Waheshimiwa, Hoja hii ilikuwa imemalizika katika kipindi cha mazungumzo ya Bunge, na sasa ni kuleta swali ili muamue.

(Bunge lilihojiwa na likaridhia)

MOTION

Hon. Speaker: The Leader of the Majority Party, you will move that Motion and we will debate it up to 3.30 p.m., then we will invite Hon. Mule and Hon. Gichimu. I hope they are in the House. At 3.30 p.m. we will go to the matter that we stayed yesterday after the voting, following the move by Hon. T.J Kajwang to adjourn.

The Leader of the Majority Party you may move and have your seconder. At 3.30 p.m. we will stop your debate.

ADOPTION OF SESSIONAL PAPER ON NATIONAL ACTION PLAN ON BUSINESS AND HUMAN RIGHTS

Hon. Kimani Ichung'wah (Kikuyu, UDA): My apologies, Hon. Speaker. I was upstairs in the Committee elections.

Hon. Speaker, I beg to move the following Motion:

That, This House adopts Sessional Paper No. 3 of 2021 on the National Action Plan on Business and Human Rights laid on the Table of the House on the 21st September 2021.

Hon. Speaker, Kenya is one of the only two African countries that have developed a National Action Plan on Business and Human Rights. This is a comprehensive policy document for the protection against human rights violations by businesses both private and also those that are State-owned or those in the public sector. The National Action Plan on businesses and Human rights seeks to domesticate the United Nations Guiding Principles on Business and Human Rights (UNGPs). These UNGPs are the global standards for preventing and addressing the risk of adverse impacts on human rights linked to business activity. They were unanimously adopted by the United Nations Human Rights Council in 2011. The global discourse on the importance of responsible business conduct has been rapidly growing in the last decade due to investor interest, consumer pressure and regulatory demands. More businesses have been adopting human rights policies and conducting human rights due diligence as required by the UNGPs. This process requires businesses to identify, prevent and mitigate adverse impacts on people and the environment thereby helping them manage potential and actual risks.

In recent years, Kenya has seen a significant increase in foreign investment and remarkable growth in the domestic and private sectors. While those trends support sustainable development, they may also adversely affect workers' rights, communities and the environment. Adverse effects from business activities range from community displacements, child labour, environmental degradation and detestable working conditions. Members will attest to this. Indeed, as our country develops and more investors come into the country, there are cases where investors both in the private and public sector disregard the issues of human rights. For instance, when we are constructing roads, you will see people being displaced from their places of businesses and their homes without due compensation and without regard to their human rights. This policy document speaks to that.

Hon. Speaker, the National Action Plan has four key objectives; mainly to guide the State in fulfilling its duty to protect individuals and communities from business-related human

rights abuses, to guide businesses on the measures they should take to meet their responsibility, to respect human rights in their operations, to promote human rights due diligence by businesses and to offer a road map of strengthening access to State-based judicial and non-judicial remedies. Hon. Speaker, from these key objectives, this National Action Plan seeks to protect both individuals and communities. That is why I was giving clear examples of how we displace people during road construction or even a factory being built in a neighbourhood without due regard to the pollution that it will bring and putting people's lives at risk. This National Action Plan will ensure that policies are there to protect people.

The second objective is to guide businesses on the measures they should take to meet their responsibility to respect human rights in their operations. This is just to make sure that businesses are aware of what measures they should take to ensure that they adhere to the protection of human rights. It also obligates the Government to ensure that it has a responsibility and a duty of care that it owes to the people either individually or communally.

The National Action Plan is divided into four chapters. The first chapter covers background information, the formulation process and the objective and National Action Plan. The development of the National Action Plan was spearheaded by a multiagency steering committee which had membership from the Government, trade unions, the private sector, national human rights institutions and civil society organisations. After four years of extensive stakeholder consultations, the National Action Plan was drafted in 2019 and received Cabinet approval in February 2021 before it was tabled in this House in September 2021.

The second chapter, which is the National Action Plan, addresses the situational analysis and focuses on five key things namely; access to land, environmental protection, labour rights, revenue transparency and access to remedy. These things highlight the key business and human rights concerns identified from the stakeholder consultation. The chapter also highlights policy concerns under these themes. Members will agree with me that these five key things include access to land which is an emotive issue. Hon. Speaker, a good example is that where dams are being built, access to land becomes a problem and people end up being displaced.

On environmental protection, you have seen cases where some investors want to construct dams in forests thereby degrading our environment. That environment has a bearing on our rights as communities and as individuals who live around those areas. Therefore, some of these issues including labour rights, bear with me, there are certain nationalities who have heavily invested in our country... I am avoiding mentioning names of friendly nations where we have seen countries of certain nationalities abuse our people in terms of their labour rights and made to work for long hours without due compensation for overtime. This is some work under very degrading environments and Members will bear witness that we have seen contractors doing roads in dusty conditions but something as simple as a face mask or goggles are not issued to these workers. This action plan seeks to protect these people so that we help the Government and our nation in reducing the cost of healthcare.

Hon. Speaker, respiratory diseases in this country are a big problem and some of those diseases emanate from the activities of our investors who disregard all manner of human rights, hence subject out workers to inhumane working conditions where workers work without masks. They work in factories where they mix chemicals without a respiratory safety gear to protect their respiratory systems and they end up contacting diseases. Members also remember the many cancer cases around our flower farms in Naivasha and other places where people are subjected to green houses with a lot of chemical emissions and yet having no safety precaution at all. This action plan and the themes around it seek to protect these people even as we protect businesses. It also ensures that people have remedies both judicial and non-judicial remedies. If investors, Government agencies, State owned corporations or a private corporation harm

people's health or the environment, the people individually or as a community have recourse through the judicial or non-judicial remedies to ensure that they are adequately compensated.

The third chapter is on the policy actions that have adopted the three pillar framework of the ENGP, mainly the State duty to protect human rights. As I said, the State has a duty to protect human rights both individually and communally. Secondly, the corporate responsibility to respect human rights, as I mentioned that our corporates, both State owned and private have a responsibility to respect human rights.

Thirdly, the access to remedies, as I mentioned, should your rights be contravened whether you are a worker or a community. If you remember the case in point of the oil spillage in some river in Makueni, it ought to have had a remedy in law and this policy addresses some of those issues. This chapter also details key policy priority areas that the Government will focus on for the next five years in a bid to ensure that all businesses including State owned enterprises respect human rights. My point emphasizes that when our own State-owned agencies, for example road, agencies like Kenya Rural Roads Authority (KeRRA), Kenya Urban Roads Authority (KURA) and Kenya National Highway Authority (KeNHA) are building roads or whenever KenGen is extracting geothermal energy in Olkaria, in Menengai or wherever else, they have a duty to respect human rights. They should not have impunity because they are State owned or are excluded from the respect of human rights.

The policy actions under Pillar One on the State duty to protect human rights include the introduction of human rights due diligence requirements for businesses before licensing. Before a business is licensed, the State will ensure that they have done some due diligence on how well that particular business adheres to the protection and respect of human rights. The use of public procurement systems to promote human rights is something that Members should keep in mind as we seek to begin our work in this 13th Assembly in matters legislation. We may think about the legislative interventions on how we incorporate human rights due diligence as part of the public procurement systems to ensure that every other corporate, be it private or corporate that is getting assistance from Government, have a duty and a responsibility to ensure that they protect human rights. It could be something that they are scored on. We get financial scores and technical scores when we are evaluating our public procurement bidders. It could be something to consider and I want to challenge Members to think around these issues especially on public procurement.

Hon. Speaker, the element of all trade agreements to international human rights standards is also another issue. The development of guidelines for non-financial reporting under the Companies Act, as you remember in the 12th Parliament, we enacted the Company Laws, there is also an opportunity... I am only mentioning this to give Members, especially our new Members, ideas on some of the key areas that you could borrow from to develop Bills that will not only place you in good standing with your constituents and the nation but also borrow from such policies that you can introduce amendments to the company laws that we passed last year to ensure that there are guidelines on non-financial reporting and how well either State or non-state actors in the corporate world adhere to human rights.

The other thing is the strength in the oversight mechanisms such as the labour inspectorate. It will ensure that our labour inspectorate department is well empowered and resourced to ensure that they are able to see to it that all our corporates adhere to the protection of human rights. Seeing the newly appointed Ministers, the Cabinet Secretary in charge of Foreign Affairs, Hon. Alfred Mutua, has already taken his trip to Saudi Arabia and I really want to challenge this House that we have a duty to protect our young men and ladies who are working on the Gulf States, from the abuse that we have witnessed. It is such national action plans that will guide us to formulate laws that will protect our labour force.

Hon. Speaker, another issue is the development of the National Resource Revenue Management Policy and the exhibition of land adjudication and registration processes. I do not

need to belabour the question of land. The Members are aware of how emotive the issue of land is and maybe we have laws that we have not respected. You will find that in our neighbourhoods somebody comes to build a factory that has emissions that are harmful to children. This is being done in residential areas and near rivers hence polluting them. A case in point is the Nairobi River. Members will appreciate the degradation and pollution in all our rivers and not just Nairobi River, because of passing through Industrial Area and residential areas, these have suffered a lot.

Lastly, the policy action plan under Pillar Two of the corporate responsibility to respect human rights, includes developing guideline tools for businesses on their duty to respect human rights, requiring businesses to adopt human right policies, encourage proactive disclosure by businesses on human rights impact and requiring businesses to cooperate with the Government agencies and other stakeholders in facilitating access to remedies for business related human rights violations. If a business violates the rights of its workers or the community, they will cooperate with Government agencies to ensure that the people whose rights have been violated have access to remedies which could include compensation for abuse of rights. The policy action plans on the three: on access to remedy includes promoting the use of alternative dispute resolution mechanisms, strengthening the national legal aid program and creating awareness of the judicial, and non-judicial remedies available to victims of business-related human rights violations. As I mentioned, we are looking at the judicial and non-judicial remedies and that is why the three speak to the alternative dispute resolution mechanisms, that is, where corporates abuse the rights of communities. People necessarily do not have to go to court. They could engage in non-judicial processes and alternative dispute resolution mechanisms to get remedy.

The fourth and last chapter of this National Action Plan provides the implementation framework of the Policy. The chapter proposes the establishment of an inter-agency implementation committee to oversee implementation of the Policy. It further provides that the National Action Plan will be reviewed periodically to capture emerging issues in the business and human rights disclosures.

I beg to move that this House adopt this Sessional Paper. Members can peruse it; it is available at the Table Office. You will see the work that went into the production of this Policy and how beneficial it is to our communities and to the business community in this country.

With those remarks, I beg to move and ask my deputy, Hon. Owen Baya, to second.

Hon. Owen Baya (Kilifi North, UDA): Thank you very much, Hon. Speaker. I beg to second. For many years, human rights issues in this country have been against the Government's trampling on the human rights of citizens. For many years, there were civil rights organisations and a lot of CBOs protesting against abuse of human rights. Human rights platforms have now moved to what businesses are doing. What are profitable organisations doing? What are non-state actor organisations doing in terms of human rights? This Action Plan is a step towards strengthening human rights and governance. It is about linking good governance with human rights. It does not only look at governance from a State perspective but also from a business perspective.

Many times, organisations are about profit making. They make huge profits in this country but they trample on the rights of individuals, especially labour rights. People whose rights are trampled on cannot have judicial remedies because the companies are powerful, have connection and are untouchable. The approval of this Plan will be a big reprieve for this country. People will be able to seek judicial remedies. We want to tell big companies such as multi agencies and blue-chip companies to respect the rights of the people that work for them. Kenyans and foreigners build many factories in this country. What mechanisms are used to employ women and how are they treated? Are they sexually abused? Are their rights trampled on? The launch of this Action Plan will give working women an opportunity to seek judicial review and to demand for respect within the organisations in the framework of the law.

The ILO has been talking about child labour. Child labour is a travesty on human rights and it continues in many organisations. This Action Plan will guard against child labour. Children should be given an opportunity to go to school, complete school and seek employment. Child labour is a source of cheap labour. Many organisations employ young people so that they can get cheap labour. Kenya is the second country to launch such an action plan. We need to protect our children from unscrupulous business people looking for cheap labour. This Action Plan has pillars that provide guidelines for businesses to promote human rights, provide judicial remedies and give individual communities an opportunity to defend their rights. There are communities in this country that live at the behest of big multinationals in the mining sector. Such multinationals do not care about environmental issues. People get respiratory diseases because of dust and dangerous gases, but they have nowhere to go. We are telling companies setting up factories here to look at the Action Plan so that they can protect the environment and people's rights. A lot of major roads are being constructed today. Companies get murram and other materials from other places, but they leave huge excavations and they do not care about it. We hear of cases of children falling into and dying in such excavations. There is no recourse for the family who loses their loved ones. A person working in a factory may have his hand cut by a machine, but he has no remedy in law or in court. The pay for people working in some of these companies is shameful. Because we do not have an Action Plan to infuse human rights within business activities, the people suffer.

We are asking this House to pass this Action Plan. We should not just pass it. We should ensure it is enforced so that people's human rights are respected wherever they work and wherever they are. Big businesses should not make profits while trampling on the rights of people. I ask Members to read the Action Plan. Whenever every committee meets a Cabinet Secretary and other officers from ministries, tell them about this Action Plan on Human and Business Rights.

I thank you, Hon. Speaker. I second.

(Question proposed)

Hon. Speaker: Hon. Members, the Procedural Motion you passed here limits debate on this Motion to five minutes per Member. Hon. Biego.

Hon. Paul Biego (Chesumei, UDA): Thank you, Hon. Speaker, for according me this privilege and honour to make my Maiden Speech. I have really waited for this opportunity. Thank God I finally have it. It goes without saying that the real honour is to the great people of Chesumei Constituency who, in their wisdom, accorded me the opportunity to be part of the 13th Parliament by immensely electing me to represent them. My name is Paul Kibichy Biego.

I congratulate you, Hon. Speaker and your deputy, on winning the confidence of this House to lead the legislative agenda. I also extend my congratulations to Members of this House. Let us join hands to make substantive deliberations. I thank God for the far that he has brought me. I also thank my family, more so my wife, who unconditionally supported my ambitions and aspirations. I cannot forget to thank my campaigners who came together in large numbers to form 'Team Paulo' through which we collectively combed villages and homesteads seeking for votes.

Further, I wish to convey my gratitude to my party, the United Democratic Alliance (UDA), and the Kenya Kwanza family led by His Excellency Dr William Samoei Ruto. The party's ideals and manifesto not only resonate with me but also with the people of Nandi and Kenyans at large. As Martin Luther King Jr once said, if a man is called to be a street sweeper, he should sweep streets like Michelangelo painted, or Beethoven composed music, or Shakespeare wrote poetry. He should sweep streets so well that all the hosts of heaven and earth will pause to say, 'here lived a great street sweeper who did his job well.' Today, I stand

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tall and affirm to live up to those words. I seek to be the best in my representation to the great people of Chusamei Constituency.

Hon. Speaker, my constituency is located in Nandi County, an area of astute agricultural background. As I stand here, we have dilapidated roads which I seek to be the solution for my people to move their products from the villages to the markets. Worst affected amongst many others are the tea farmers who have a horrendous task ferrying their products due to bad roads. In the past few days, we witnessed not less than three lorries overturn as the drivers were unable to navigate through the bad roads. Just to mention but a few roads within my jurisdiction which need urgent attention: Baraton-Samoo Road, Chemuswo-Abenja Road, Kimondi-Kaiboi Road, Lelmokwo-Ngecheck Road, Belekenya and Masaba roads amongst others. This will go forth to ensure proper road network to the success of Government programmes for now and the future.

As we are aware, distribution of nitrogen, phosphorus and potassium (NPK) fertilisers to small tea growers across the country is ongoing. The Government also flagged-off a consignment of Di-Ammonium Phosphate (DAP) fertilizers to the farmers a few days ago. We commit to provide affordable farm inputs through subsidy which is a strategic intervention that will put the country on the right path as far as food security is concerned. As we do this, I wish to call for proper and equal distribution mechanism to enable all farmers including those in the interior and remote areas to receive the subsidised fertilisers as we use local administrators for easy access to the farmers.

I represent qualified but unemployed young people whose faith and hope is pegged on me to seek out job opportunities for them to get meaningful livelihoods and to provide for themselves and their families. As a young legislator and a first-timer, I beg to know what criteria is used in giving people opportunities to speak in this House. I have been on the queue for a very long time.

My time is up but I will speak next time. We would like to be given equal opportunities so that we can speak.

Hon. Speaker: I know the Member has made a Maiden Speech. But as you make your maiden speeches, be relevant to the Motion on the Floor. The good Member has made a good speech about his constituency and made no reference to the Motion on the Floor.

I invite Hon. Emmanuel Wangwe. My screen is full and I do not know if Members have logged in for the proposed constitution amendment Bill or for this Sessional Paper.

Hon. Emmanuel Wangwe (Navakholo, ODM): Hon. Speaker, I rise on a point of order on Standing Order 183. In line with what you have just said, I wish to remind you that in the 11th and 12th Parliaments, we had the “father and mother” of the House. As we progress into the 13th Parliament, we seem to assume that we do not have a father and mother of this House. I would wish to take this chance to request you to name the father and mother of the House who will help to mentor the young legislators in line with the Commonwealth Parliamentary Association (CPA) practice. Some of these issues in terms of procedures and processes that are being raised, which are not covered in the Standing Orders, can be taken care of.

Hon. Speaker, now that I have the opportunity, allow me to make a small contribution to this proposed Sessional Paper. I support it, especially the clauses which provide for the safeguarding of human rights for our people who are going to work outside this country. It really perturbs me to find that our young women and men are going out of this country unguided by law. Instead of them coming back with successes, they come back as packed cargo just because they have been mistreated, butchered or murdered. Some of them have not returned. It is important that this 13th Assembly approves this Sessional Paper so that we can protect those who are working overseas and within our industries.

I beg to support.

Hon. Speaker: Hon. Kosgei you have the Floor. I will communicate on the point of order raised by Hon. Wangwe about the fathers and mothers of the House.

Hon. (Dr.) Jackson Kosgei (Nominated, UDA): Hon. Speaker. At the outset, I take this opportunity to support this Motion on the Floor. The question of human rights touches so much on the day-to-day lives in countries and in our own country. The issue of human rights should be understood as a moral entitlement that every individual in the world possesses, given by God. As a human being you are entitled to that right.

One of the issues that we observe especially as persons with disabilities is the question of accessibility to places of public services to the citizenry. I have travelled and at one point I had an experience where the airlines in this country do not provide means by which we board the planes depending on the disability. I was shocked one day when I was asked by a flight attendant: “Who admitted you into this flight anyway”? I brought this to the attention of the House through various committees and I was surprised to learn that some of the companies did not think that this was a human rights issue.

Therefore, I support this Motion this afternoon. We want to address many issues if this Motion is enforced.

Hon. Speaker: Thank you. Hon. Kahindi Katana, do you want to contribute to this Motion or the constitution amendment issue? If you are logging in for the constitution amendment proposal, hold your horses until 3.30 p.m. If you are contributing on this Motion, then go ahead.

Hon. Paul Katana (Kaloleni, ODM): Thank you, Hon. Speaker, for giving me this chance. I support the Motion.

On the issue of human rights, we have seen very many multinationals who have no respect for the workers whom they employ in their companies. It is so sad that young women employed in these areas become prey for the managers or the supervisors. They abuse them sexually.

I support the Motion because it is going to end this kind of abuse to our young women. These companies also, once they do the mining, disregard environmental issues. They only think of how much money to make then they leave us with many problems in our environment. I support the Motion. Thank you.

Hon. Speaker: Order, Members. Order, Leader of the Majority Party and your team. I acknowledge the presence in the Public Gallery of Kongoni Primary School from Lang’ata Constituency, Nairobi. On your behalf and my behalf, we welcome the school to the House of Parliament. Hon. Members, there is a short Communication.

(Debate temporarily interrupted)

COMMUNICATION FROM THE CHAIR

POSTPONEMENT OF ELECTION OF CHAIRPERSONS OF CERTAIN COMMITTEES

Hon. Speaker: I wish to inform the House that I received two letters relating to the ongoing elections of chairpersons and vice chairpersons of committees. The first letter is from the Leader of the Minority Party—Hon. Opiyo Wandayi, C.B.S. The second one is from the Member for Kipipiri—Hon. Wanjiku Muhia. In this letter, the Leader of Minority sought postponement of election of chairpersons and vice chairpersons of the Public Investments Committee on Commercial Affairs and the Departmental Committee on Energy from tomorrow Thursday, 3rd November 2022, to Friday, 10th November 2022. The deferment is informed by the need to reorganise membership of committees in line with Standing Orders 174 in view of

vacancies arising from election of the chairpersons and vice chairpersons of Departmental Committees.

On her part, the Member for Kipipiri—Wanjiku Muhia notified me that she is a Member of the Select Committee on Regional Integration where she will be vying for the position of chairperson in the election scheduled to take place on Friday, 4th November 2022. She was concerned that the Joint Parliamentary Committee on elections of East Africa Legislative Assembly (EALA) that she co-chairs will be retreating in Mombasa on Friday, 3rd November 2022, to consider matters with statutory timelines. That will disenfranchise her if the elections proceeded as scheduled. The Member therefore sought the indulgence of Hon. Speaker to reschedule the elections from Friday, 4th to Thursday 3rd November 2022, in order to enable her to participate in the elections and thereafter proceed to attend the ad-hoc committee meeting.

Hon. Members, I have since acceded to both requests by the Leader of the Minority and Hon. Wanjiku. In this regard therefore, the election of chairpersons and vice chairpersons of the affected committees is scheduled as follows:

1. The Committee of Regional Integration will hold elections tomorrow, Thursday 3rd November 2022, at 3:30 p.m.
2. The elections by the Public Investments Committee on Commercial Affairs and the Departmental Committee on Energy stand deferred to Friday, 10th November 2022, in the morning at about 9 a.m.

The House is accordingly guided. I thank you.

Hon. Didmus Barasa, you have four minutes on this Motion.

(Debate resumed)

Hon. Didmus Barasa (Kimilili, UDA): Thank you for giving me this opportunity.

Even as I support this Sessional Paper, I know for a fact that this is not the first time we are having such a thing before this House. The Factories and Others Places of Work Act of 1997 was repealed by the Occupational Health and Safety Act of 2007 that specifies and makes it mandatory that all employers and institutions, whether Government or private, must employ a safety and environmental officer who will assist them mitigate risks that employees may face. Subsequently, this Act birthed an institution called the Directorate of Occupational Health and Safety that is supposed to annually audit all institutions—whether Government or private—to approve their preparedness, willingness and response to the very many risks the employees face.

As a House, what we should be asking ourselves is whether the Directorate of Occupational Health and Safety is doing its work in line with legal provisions. We even have the National Environmental Management Authority (NEMA) that is supposed to audit institutions. Those that are not able to deal with mitigations against the environment are dealt with by NEMA. Another question we should ask ourselves is whether NEMA is doing enough to ensure our environment is protected. Even the Employment Act puts the responsibility of ensuring the very basic rights of employees by the employer are taken care of. This is not limited to child labour. I know that even as we approve this Sessional Paper, you already have enough laws in the country. They take care of these particular risks and interests of employees in terms of working in a very safe environment.

We are aware that thousands, if not millions, of people in this country have contracted various occupational diseases and ailments because of the working conditions. The reason this House and the Constitution allowed the passage of the law that takes care of injuries that an individual might get sustained from work related issues was to put responsibility on institutions

to put much efforts in protecting the rights of employees. Time has come when we need to relook at work injuries and the Benefits Act. That is to increase those benefits. That is what will make every employer in this country, whether Government or private, to put a lot of effort in ensuring that employees work in an environment that is conducive and does not make them prone to contracting occupational ailments.

With these very few remarks, I support. Yes, we have enough laws against what is proposed here. It is up to this House to ensure institutions charged with the responsibility of ensuring work environments are conducive do what we expect. I support.

Hon. Speaker: Leader of the Majority Party, in keeping with my earlier direction that your debate will be interrupted at 3:30 p.m, under Standing Order 96, you may have to get a Member to move the House to adjourn debate. Get a Secunder, we put the question then we go to the constitutional debate. Hon. Pukose.

Hon. (Dr) Robert Pukose (Endebess, UDA): Hon. Speaker, I beg to move, under Standing Order 96, that we adjourn this debate considering that you had scheduled and given initial direction that the House adjourns so that we deal with the constitutional matter. This is a very important matter on the planned action on Sessional Paper No. 3 of 2021 so, we can discuss it further. I move and ask Hon. Ndindi Nyoro to second.

Hon. Speaker: Hon. Ndindi Nyoro, give him the microphone.

Hon. Ndindi Nyoro (Kiharu, UDA): Hon. Speaker, I second.

Hon. Speaker: Order, Hon. Members. The Minority Whip, you seem to have had a good lunch. Hon. Members, in accordance with the Standing Order 96 and the provisions therein, I beg to put the Question that debate on the Motion in Order No.8, do now adjourn.

(Question, that debate be now adjourned, put and agreed to)

(Debate adjourned)

Hon. Speaker: That Motion is consequently put in abeyance. It will be back on the Order Paper either tomorrow or Tuesday. We now move to the prepublication debate on the constitutional Bill proposed by Hon. Mule and Hon. Gichimu.

STATEMENT

LEGISLATIVE PROPOSAL TO AMEND THE CONSTITUTION UNDER STANDING ORDER 114(7A)

Hon. Speaker: Hon. Members, I indicated to you yesterday... Hon. Junet please have some order. I indicated to the House the purpose of this debate. It is a prepublication debate and has no vote at the end. All Members who have issues... I have received representation from the Member for Dagoretti South that he has an issue which he wants to ride on the proposed Bill. Debate the Statement and put your issues. In this House we have a draft team from our drafter's section. They will pick ideas as you debate and eventually share with the proponents of the Bill to see whether they can find a way into improving it.

Those with ideas they want to share directly with Hon. Mule and Hon. Gichimu after the debate, can do so. Thereafter, the Speaker will decide whether the debate and the draft merit to be given a nod and drafted as a constitutional amendment Bill or it dies after the debate. So, as you debate, know that is the direction we are going. I now invite Hon. Mule to start off the debate. Thereafter, we will have Hon. Gichimu to make his statement. After that because of

the enormous interest I see in this debate, I want your direction as to whether you want to debate for five minutes or ten minutes each. Five or ten?

Hon. Members: Five.

Hon. Speaker: Okay, let us hear the Members then, I will give direction. Hon. Mule.

Hon. Stephen Mule (Matungulu, WDM): Thank you, very much, Hon. Speaker, for this opportunity. My colleague Hon. Gichimu and I want to thank all the Members for the support they gave us through their signatures to get where we are.

Hon. Members, this is one of the moments which I know every Member wants to be part and parcel of. I will give some insights and then Hon. Gichimu will give us the roadmap on how we will move from here. So, we can get to the tail end and ensure the National Government Constituencies Development Fund (NG-CDF) and the other Funds we are proposing are completely within and placed in the Constitution of Kenya.

I want to remind Members that the journey of the former Constituencies Development Fund (CDF) begun in 1999 with Hon. (Eng.) Karue. He proposed but it was not easy until sometimes later in the year 2000, when this House passed an Act to ensure we got CDF. Hon. Members, we have limited time. I do not want to dwell on the history, since all of you know it. I want to look at a few social development achievements which will enable Members and the public to give us an opportunity to get the NG-CDF, the National Government Affirmative Action Fund (NGAAF), the Senate Oversight Fund and the Economic Stimulus and Empowerment Fund in the Constitution. This will enable us to create a situation in this country where we know very well, we have total protection of these Funds from this year until, God's given time for us to leave this world.

Hon. Members, you need to understand that for the last 18 years, NG-CDF has performed extremely well, with key mandates and disbursement of close to Ksh417.2 billion to constituencies across the country. Consequently, the Fund increased that figure from Kshs1.3 billion in 2003 and by the Financial Year 2022/2023 it stood at Ksh44.29 billion. Hon. Members, you all know exactly what NG-CDF has done on the ground - at the grassroot level. I want to put it to the public and Members in this House, why we need to protect this Fund and the others. This is so as to ensure we move forward as Kenyans and the future of this nation especially, the constituencies we develop is completely safeguarded.

Hon. Members, I want us to move together and understand where we are coming from to ensure we walk this journey together. It is not a simple journey, but I know at the tail end, we will manage to convince Members. We will be 290 Members in this House who will make sure we attain the two-thirds threshold. So, we can enact this constitutional amendment.

For the last five years, NG-CDF has disbursed Ksh57 billion in terms of bursaries which have benefited six million students in the Republic of Kenya. Hon. Members, it is for you to cheer this so we move with the public out there who are watching. For the last five years, NG-CDF has constructed 24,020 classrooms in different parts of this country and contributed to the education sector.

We have also managed to finance and construct 1,156 dormitories which are occupying a capacity of 138,732 students. We have constructed 3,288 administration blocks in both primary and secondary schools in different constituencies. In most secondary schools, we financed and constructed 131 libraries which are making enormous changes in the learning of students in those secondary schools. Hon. Members, to ensure proper sanitation in primary and secondary schools for the last five years, NG-CDF has constructed 19,400 better sanitary toilets for our kids in this country. In the same period, the NG-CDF also helped to purchase 961 new buses to ferry students to various areas. In the same line of education, the NG-CDF enabled Members to fully complete, at least, 833 dining halls. We have been able to construct 876 staff houses within the various schools across the country.

We have also assisted the Kenya Medical Training College (KMTC) to construct 190 lecture halls and 67 administration blocks within its various campuses. You know very well that many Members have been able to partner with the Government to put up Tertiary Technical Institutes (TTIs) in various constituencies. At the same time, we have constructed 10 lecture halls and 71 administration blocks in those institutes.

In the last five years, Members of Parliament allocated, at least, Ksh57 billion to bursaries to make sure that we keep students in school. At this moment, I know every Member in this House is under pressure from constituents who want us to make sure that students are in school and in safe hands.

In the security sector, this Fund has enabled us construct national Government administration offices totalling to 193. By it, offices totalling to 2,102 have been constructed for chiefs and assistant chiefs; a total of 1,091 police posts; 350 new police staff houses; and, many other new facilities.

I would like to inform this House that this Fund has elevated students who did not know whether or not they would complete their education. We should be proud as a House. I would like to announce that the NG-CDF funded to completion the training of eight commercial pilots who are now flying high-end aircrafts in the country and the world. What else are we looking for? I spoke with one of the pilots the other day. It was a very fascinating story. He is willing to come and give a testimony on how the NG-CDF enabled him to study to become a commercial pilot of a Boeing 787 aircraft. The Fund has earned itself a place in the Constitution. We ought to sit down and discuss it quite at length in order to stop busy-bodies who are trying to kill it. Indeed, it is a noble idea, which was started by our colleague, Hon. (Eng.) Karue.

I will say one more thing so that I give Hon. Gichimu a chance to give us the roadmap and allow Members to ventilate. We are not relenting on this journey come what may. We will walk the journey as Members from both sides of the political divide to make sure that we safeguard this idea because it will take this country to the next level. I know that we are also carrying on board the National Government Affirmative Action Fund (NGAAF), which provides opportunities for the women representatives in this House. We are also thinking outside the box to make sure that Senators have a fund which they can use to oversight counties. That way, we will stop the menace of corruption and looting of county monies through rogue administrations.

We are also looking forward to having an Economic Stimulus and Empowerment Fund, which will take care of women and men. When I said, “men”, some people looked at me. There are a number of men out there who need support from the Government to be empowered to deal with the girl-child. They need to be empowered to make sure that they complement the girl-child so that when they marry, they are at the same level. The same Empowerment Fund will carry on board people living with disabilities to make sure that they feel part and parcel of the economy and can have a stake at economic building.

Hon. Members, as we debate, my colleague and I want to hear your views on how we can improve on this, so that we move to the Second Reading stage. I assure you that we are ready and equal to the task to amend the Constitution through a parliamentary initiative in this House, without spending a single penny of public funds. That is the power we were given by the public when they elected us in August. We must change the way things are done in this country. We must use the authority and power that we have been given by the people to safeguard them.

Hon. Speaker, I rest my case there. I request my colleague, Hon. Gichimu, with whom I am ready to walk this journey, to second. I know it will not be a walk in the park. It will have ups and downs, but we are ready to make sure that we safeguard these funds so that Kenyans get value for money for the future. We want to forget about busy-bodies who think that

Members of Parliament are part and parcel of the Committee. I know Hon. Gichimu will give you a breakdown of how the funds are structured.

Lastly, after we enact and entrench all those funds in the Constitution, you will have the opportunity to pass new Bills through this House, which will never require a two-thirds majority. You will only require a simple majority of the House to get the new NG-CDF Act, probably, of 2022, 2023 and 2024. We will have a new NG-CDF Act, a new Act to deal with the issue of the Senate, and a new Act to deal with the Economic Stimulus and Empowerment Fund.

I know there are many Members who have a lot of questions. We are free and available. Yesterday evening, we had an opportunity to meet with Members of County Assemblies (MCAs) drawn from the entire country. They gave us their views and we advised them very well. We want to carry along with us everybody who is speaking about development. We want to carry Wanjiku, Maina and Mutua.

Hon. Members, I urge you to move together for a better Kenya. Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Mule. Hon. Gichimu.

Hon. Gichimu Githinji (Gichugu, UDA): Thank you, Hon. Speaker, for giving me this opportunity to give my exposition on the statement on the legislative proposal to amend the Constitution.

Before I start, let me thank you for having facilitated us, through the Office of the Clerk, to be able to reach this level within a record one month. Let me also thank Members of this House for overwhelmingly supporting the legislative proposal which only required 50 Members to sign. But, the last time I saw the list of the signatories, over 300 Members had signed the proposal. That is much appreciated. It means that we are in this game together only that Hon. Mule and I are taking the lead. I know this is a matter that is at the heart of each and every Member.

Allow me, Hon. Speaker, to take Members through the legal and constitutional framework surrounding these amendments. Articles 255, 256 and 257 gives the procedure and the instances in which the Constitution can be amended through a parliamentary initiative, or a popular initiative. In the present case, we are talking about the parliamentary initiative. According to the Constitution, Parliament can amend any part of the Constitution, but the procedure for amendment through a parliamentary initiative is usually two pronged: one, you amend the Constitution and you end up in referendum. Two, you may amend the Constitution but you do not have to go through a referendum. That is what I wanted to enlighten Members on.

Under Article 256, either House of Parliament – National Assembly or Senate – can initiate a constitutional amendment, and we have initiated one in this House. After publication of the Bill, it will be read a First Time in this House. It requires that we have 90 days for public participation before the matter is re-introduced in Parliament for the Second Reading. In both instances, that is, the Second Reading and Third Reading, the threshold to pass a Bill to amend the Constitution is two-thirds majority in both Houses.

If both Houses pass the Bill, the two Speakers of the National Assembly and the Senate will forward the Bill to the President for assent with a certificate. However, the President will not assent to the Bill if it touches on matters that are enumerated under Article 255 (1), that is, if the Bill touches on matters of Bill of Rights, the sovereignty, the supremacy of the Constitution, independence of the Judiciary, constitutional commissions, independent offices and other matters that are enumerated there. In that instance, that Bill will stand committed to the IEBC by the President for them to give an approval for his assent, and that approval will not come until the matter is taken for a referendum. The requirement in that referendum is that, at least, 25 per cent in half of the counties shall have voted with a majority of the Members

giving a nod to the Bill. That is when IEBC will give a certificate and then the President will assent to the Bill and have it published.

However, in our case, we have tried to avoid that route because we have avoided to touch on all the matters that are enumerated under Article 255 (1). We are not touching on any one of them. So, our case is that this matter will end up in both Houses of Parliament, then both Speakers of Parliament, should we attain the requisite two-thirds majority, will present the Bill to the President for assent.

Hon. Speaker, a roadmap is provided under the Standing Orders and you have already guided this House. Today, we are not debating this Bill for any vote or for any resolution. We are just giving the House an opportunity to give general comments which will later be collated and considered by the committee that will take this matter forward. Indeed, Hon. Speaker, you have already directed that the National Government Constituency Development Fund Committee should steer further discussions on the matter.

For the interest of Members, towards the tail-end of the 12th Parliament, the Procedure and House Rules Committee, which is under the leadership of the Speaker, presented to this House the amendments to our Standing Orders and that is how Standing Order number 114 (7A) was introduced in this House. It was because of the importance of constitutional amendments. The roadmap on an amendment of the Constitution was given preference in that amendment. The first step is to have a legislative proposal, which we already have before this House. The Speaker has already allowed sponsors to make statements, which we are already making, so that Members can weigh in and give their general comments. Thereafter, there will be a facilitation for collation of the comments. That is why we are urging Members to give their views as to how we can enrich these amendments. That will be the best thing because they will be picked by the committee that will take over the matter from here and then to guide the House.

After collation of comments, the committee will also give Members another opportunity to appear before it and so shall other stakeholders, including the Attorney-General; Commissions and Independent Offices; and, the Senate. Hon. Speaker, you have given very good guidance. There were fears by the Senators that we might discuss and pass this Bill as it is before they give their input. They have an opportunity at the next level to give their views, and so are other interested persons.

The whole country will also have an opportunity to be involved. We will have three months, after the First Reading, to reach out to every part of this country because this is a constitutional amendment.

Hon. Speaker, lastly, after all this is taken care of, there will be what we call harmonisation of all the views that have been collected from this House and stakeholders. At that point, the Bill will be published for First Reading and then introduced to the House. At that level, with your guidance, you have said that once the Bill is introduced and goes through the First Reading in the House, it cannot be amended. This period is very important so that all the people who have interest in the matter can be brought on board. Without belaboring the point, this is an opportunity for these Members to give their views, comments and enrich the proposal. Kindly Members, we have not done this to finality hence we beseech you not to appear like you are correcting us. Yours is to enrich the debate and the proposal that we have come up with so that we can have the best for this country. We need to protect the National Government Constituency Development Fund (NG-CDF) and introduce two other funds which are very critical in this country.

Hon. Speaker, as I wind up, let me also give some insight on matters that were in court. The first matter was the one challenging the Constituency Development Fund (CDF) Act of 2013 and not the NG-CDF. Those are two different funds. The CDF is the one that was introduced and was found to overlap with the functions of the counties. The Supreme Court

ruled that the CDF Act was offending the Constitution because it was actually purporting to perform some of the functions of the county. The other reasoning of the Supreme Court is that the way it was couched, CDF was meant to dip into the jar of the Consolidated Fund and get money from there and, therefore, creating a third tier of Government. To some extent, I agree with part of their reasoning. However, in the wisdom of this House, the NG-CDF Act, 2015 was enacted. It aligned the Fund with the National Government functions. I believe that we have a good case in the High Court Case No. 178 of 2015. I will not give comments on it because of Standing Order 89 on *sub judice*. This matter is actively in court. I am informed by the Litigation Department that this matter has a date for submissions on 1st and 2nd December and, thereafter, judgment will be given.

I rest my submissions and ask Members to support our legislative proposal and move this country forward. This is meant to support children from poor families who cannot otherwise access education without bursaries which stem from the NG-CDF.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, you have heard from the proponents of the Bill that the proposed Bill is in its pre-publication stage. What follows now is not debate as such, but general comments to engage and enrich the proposals put forward. Let us have Hon. Otiende Amollo.

Hon. (Dr.) Otiende Amollo (Rarieda, ODM): Thank you, Hon. Speaker. First, I want to thank Hon. Gichimu and Hon. Mule for this legislative proposal. Tellingly and appropriately, it is not titled a Bill or a Motion. It is a legislative proposal and at an appropriate time, you will be giving a ruling on issues of amendments. Previously, when this House considered the constitutional amendments under the *punguza mziro* and Building Bridges Initiative (BBI), the Speaker then gave a ruling that it could not be amended. However, I think out of abundance of question....

Hon. Speaker: Hon. Otiende Amollo, each Member, starting with yourself, will have five minutes to make your comments.

Hon. (Dr.) Otiende Amollo (Rarieda, ODM): Thank you, Hon. Speaker. It is appropriate that at this stage that the Movers consider having wide consultations. As they had directed, there will be public participation to develop consensus. At an appropriate stage, because of the possibility of difficulty of amendment, it would be appropriate to consult the Attorney-General (AG), the Kenya Law Reform Commission (KLRC) and, of course, the drafters in this House.

I generally want to start by supporting this initiative. At the outset, it is important for Kenyans to understand that when Hon. Members speak of the need for the NG-CDF, they do not need it for themselves. With or without the NG-CDF, Members have their salaries. In fact, without the NG-CDF, the workload is reduced. As we speak today, every day we get not less than 100 phone calls of children who are at home because they cannot get bursaries. I am sure that I speak for all the Members. So, it is not the Members who are suffering but the people.

I want to announce that the one thing that unites Kenyans is the NG-CDF. I had the privilege to write this Constitution and everywhere we went, the one thing that the people supported was the CDF. I will explain why we did not entrench it at the time. I think we were wrong and we should have entrenched it at that time. The principle of having the NG-CDF is very noble and it is the same principle of why we have devolved governments at the county level. In Article 173, it is the same principle that was used to create the Judiciary Fund. It is a bit ironical for the Judiciary to find that the principle in CDF is unconstitutional, but the Judiciary Fund is constitutional.

At the outset, it should be stated that although we support this, it should not be an excuse not to disburse the NG-CDF. I support this initiative and it will be moving forward. I want to say here authoritatively that, as we speak today, there is no court order whether from the High Court, Court of Appeal or Supreme Court that stops disbursement of the NG-CDF under the

2015 Act. I want to urge that as we meander our ways through this amendment, let the NG-CDF be disbursed because it is constitutional as we speak.

(Laughter)

I think Hon. Kaluma has just arrived in the country. Hon. Speaker, the drafting is very good. If you look at the draft proposal in Clause 204 (a), it is appropriately placed. This is because it comes immediately after the provisions of the Fund that is similarly created for the purpose of bringing areas that had been left behind. If you look at this draft, it acknowledges that this is a National Government Fund and proposes to increase it to 5 per cent. I think this is appropriate. The more it is, the more Kenyans benefit; not us. Importantly, is the drafting in terms of it being 5 per cent of the annual division of revenue. As we all know, there has been an issue in terms of what we would call jerrymeandering by the National Government. Counties have suffered and I think this is very good for us.

However, I also want to ask the two Hon. Members to consider Clause 204 (2). It proposes that the Fund be allocated and considered under Article 206 (2) (c). I want to caution that the effect of that drafting is essentially to make this Fund a charge on the Consolidated Fund. I do not think that is what they intended. We do not need to go that way. Once we have put the percentages and we have the budget making body, it becomes automatic. We do not need to make it a charge on the Consolidated Fund. I support the idea of creating the Senate Oversight Fund and the Affirmative Action Fund. We can debate the percentages. Kindly, add me two more minutes, Hon. Speaker. I urge them to consider restricting it in two ways: one, it cannot be a fund to use. So, if you are the Senator for Siaya, you cannot use monies from the fund in Mombasa. These funds should be restricted to the county where you are elected, which so far is not the case. Two, there must be a distinction between elected Senators, elected Members and nominated Members. Nominated Members may not have equal responsibility as those elected. This is a good initiative. This is an area that requires bipartisan support and consensus. Even though it is a Money Bill, we expect the National Treasury to support us. This is where we must assert ourselves as Parliament. If we cannot assert ourselves here, we will never do so anywhere. Let it be the first constitutional amendment.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Amollo. Hon. Lotee Titus from Kacheliba. Did he log in and leave? Where is he? I cannot see him.

Hon. Titus Lotee (Kacheliba, KUP): I am here, Hon. Speaker.

I rise to debate this very important matter, which is the National Government Constituency Development Fund (NG-CDF). I also want to put a lot of emphasis on the National Government Affirmative Action Fund, having been its immediate former CEO.

When the President addressed this House, he accepted that the NG-CDF should be put in the Constitution. This must be the first constitution amendment Bill for this House to consider. If you heard the Mover speak, the development that this Fund has brought about in the constituencies is an indicator that it is the only Fund that has been put to good use in this country. The reason we have many Kenyans crying is that money from this Fund has not been disbursed as yet. The Fund has public support. Without mincing my words, let me say that every item on the Budget of the Government with regard to NG-CDF will not reach *Wanjiku* if it is not made central. There are other initiatives that the Government wants to use to reach the public like the Hustler Fund and the rest. However, NG-CDF is the only Fund that touches the lives of persons on the ground. If you look at the Hustler Fund, there are conditions laid for you to get it. The NG-CDF cuts across. As we do the amendments and take this proposal for public participation, I would like it to be looked at this way.... I appreciate what you have said, Hon. Speaker, that there are drafters in this House who are picking what Members are saying

to be included in the Bill. I do not understand why this Fund is locked to be used for security and education needs only. There are other things that this Fund is supposed to do. Because we have been given time as Members of Parliament to put this in our Constitution, I want Members, the public and the Senate to open up the space of things that this Fund can do. In the Constitution, we need to state what the NG-CDF is supposed to cater for at the national and county level.

If you look at what the national Government is doing, you will find that it is a replica of what the county governments are doing. Matters water, for example, are done at both levels, but at different capacities. I urge this House to consider including water in the Fund's programmes. We Members of Parliament are suffering because people call us to even supply water to them! Here, we are told it is a county government function. Members, as we debate this proposal and look at how we can entrench this in the Constitution, let us consider matters water. In any case, 85 per cent of Kenya is arid and semi-arid. The issue of water is key. As we look at education and everything else, let us consider including provision of water under the NG-CDF. This is our Fund and it can make an impact.

Thank you.

Hon. Jayne Kihara (Naivasha, UDA): Thank you, Hon. Speaker for giving me this chance. I am a pioneer of NG-CDF. We were with you, Hon. Speaker, in the parliament that enacted the Fund. Hon. Namwamba took CDF to court, but when he became a Member, he realised how important the Fund was. It is the most devolved Fund in the country. Hon. Muriuki Karue came up with it because then there was a famous phrase that a development project would only be done 'when funds became available'. The regions that did not support the Government of the day never got development. The NG-CDF goes to every corner of the country.

I happen to have been a wife of a Member of Parliament who did not have NG-CDF. It was such a difficult leadership. I would see my husband sell a cow and give all the money to a parent whose kid was not in school. That is how this Fund is important. At that time, we used to construct hospitals and provide water until devolution came to our aid. We literally used to do everything. I was in the pioneer Committee of the then CDF and I travelled across this country. Members, then, would just sit here to make laws. Members are supposed to give. They are supposed to distribute even if there is nothing to be given!

It feels so good when a young man comes and tells me that he went to school courtesy of my NG-CDF and is now working. As we talk, calls are coming in because people need bursaries. If there is a segment of bursary that goes to the county governments, I wish Hon. Gichimu and Hon. Mule would bring it back so that it is channeled through NG-CDF. We are the people who stand with students and parents, and we know where it bites. I happened to have been at the place where the idea was mooted by Hon. Mule and Hon. Gichimu. I thought it to be the greatest idea. If we never had the NG-CDF today, you would see marginalisation in the regions that did not support the sitting Government. I remember a parent telling me that if NG-CDF is revoked, we should tell Kenyans to come out to the streets because they know how they benefit from it. Without much ado, I thank Hon. Gichimu and Hon. Mule. Let us support this legislative proposal to amend the Constitution because we are the ones who represent the electorate. We are the ones who know where it bites. If you do not support the Government, there are chances that you will not get development.

I support the legislative proposal to amend the Constitution.

The Temporary Speaker (Hon. Omboko Milemba): Very well. Leader of the Minority Party.

Hon. Opiyo Wandayi (Ugunja, ODM): Thank you, Hon. Temporary Speaker. Let me add my voice to this very important debate. I want to start by thanking Hon. Gichimu and Hon. Mule for making this very vital step towards ensuring that NG-CDF, among the other funds

that are proposed, is entrenched in the Constitution. I want to join my colleagues who have spoken before me in making a case for the NG-CDF in particular. I want to be very brief.

It is not in doubt that right from Independence up to date, funds are allocated every other financial year to the national Government Departments, Ministries and Agencies towards certain projects which are critical and vital for the development of this country. For example, funds are continually allocated for infrastructure in schools through the Ministry of Education. The other case is funds are allocated towards bursaries for our children through the same Ministry of Education. Funds are also allocated towards construction of security installations such as police stations, administration offices and so on through the Ministry of Interior and National Administration. One worrying trend is that in all these cases, prior to the advent of NG-CDF, or its predecessor, the CDF, nothing was there to show for those funds.

If you travel across the country and ask where the funds that have been earmarked for those development projects through the respective ministries are, you will not be shown any. Therefore, the coming into being of CDF and now NG-CDF was kind of a revolution. It is not in doubt that the NG-CDF has been felt far and wide across every breadth and width of this country. I will reiterate what was said earlier by my colleagues. We have very many cases. For instance, there are children who were unable to report for third term this year in my constituency. There are children of poor Kenyans who rely on NG-CDF for bursaries. They continue to languish at home since the opening of third term this year.

There are projects which had been earmarked in the education sector in terms of improvement of school infrastructure and vital facilities such as laboratories and libraries. There are also vital facilities such as police stations and posts all over the country. They have either stalled or have not taken off as a result of this stalemate on NG-CDF. If you look at the impact NG-CDF has made in the lives of ordinary Kenyans across the country, you will agree with me that anybody who puts roadblocks on its path trying to outlaw it, or makes it inoperative, is essentially an enemy of the people.

(Applause)

There can be no better enemy of the people than that person who tries to sabotage NG-CDF. Therefore, this House has a destiny with history. We must choose to be on the right side of history. We, as a House, must choose to assert ourselves and make this move. This debate, haggling, or back and forth with the Judiciary will be put to rest once and for all if we entrench NG-CDF, among other funds, in the Constitution as quickly as possible.

The Temporary Speaker (Hon. Omboko Milemba): Very well. Hon. (Dr.) Robert Pukose.

Hon. (Dr.) Robert Pukose (Endebess, UDA): Thank you, Hon. Temporary Speaker for allowing me to join my colleagues in making comments on this legislative proposal to amend the Constitution by Hon. Gichimu and Hon. Stephen Mule, Member for Gichugu and Matungulu, respectively.

(Loud consultations)

This is a proposed legislation to entrench NG-CDF, the National Government Affirmative Action Fund (NGAAF), the Senate Oversight Fund, and the Economic Stimulus and Empowerment Fund in the Constitution. This is a very progressive amendment. Last year, we had the Building Bridges Initiative (BBI) fraud, which had a good proposal of amending CDF and making it a constitutional provision. I think Hon. Mule and Hon. Gichimu seized the better parts of that proposed amendment to do something that is noble. Indeed, NG-CDF has done a lot. When you go to the counties, you might not see any serious project. However, you

will always see a NG-CDF project like a classroom, chief's office, deputy county commissioner's office, an assistant county commissioner's (ACC) office, police stations and many other projects. As my colleagues have said, students benefit through NG-CDF bursary allocations.

Even as we speak now, many of us are getting calls from our constituents asking when we will disburse the bursaries. I talk on behalf of the great people of Endebess. We have many needy students whose education is almost wholly dependent on NG-CDF. We have infrastructure for schools which has been improved through NG-CDF. Entrenching this very important Fund in our Constitution is an obligation of this House. Members need to note that the legislative proposal will be published. For the sake of new Members, it will take 90 days. After that, we will have the Second Reading of this Bill. Because we are amending the Constitution by parliamentary initiative, it needs two-thirds of our support. It will also be referred to the Senate and be supported by two-thirds, so that it can be actualised.

Hon. Temporary Speaker, my only take is on the proposed 5 per cent of the national revenue. Can it be accommodated within our Budget? Does it need some bit of amendment before it is published to make it 3 per cent or even 3.5 per cent? We need to be realistic about that.

(Loud consultations)

That is my suggestion. You will have your own suggestions to make. Let us hope that the economy will grow.

With those few remarks, I support the amendment.

The Temporary Speaker (Hon. Omboko Milemba): Very well. Let us have Hon. T.J. Kajwang'.

Hon. T. J. Kajwang' (Ruaraka, ODM): Hon. Temporary Speaker, five minutes is short I may not do justice to this amendment. I want to be the devil's advocate here. We have agreed as senior counsel. Hon. Otiende Amollo has said that the drafting of the National Government Constituencies Development Fund (NG-CDF) is well done. We can work on the mathematics of 5 per cent or whichever percentage, but the drafting looks good.

I want to ask the promoters of these Bills to draw a small caucus that will assist them. This Bill is so important for us to waste. Anything that will make us succeed is important. They should have a small caucus that will direct them, especially on the drafting and on the constitutional law around it. For example, I have seen they have talked about the Senate Oversight Fund and other things like economic stimulus. We do not want anything that will poison the NG-CDF. If you want to know how poison works, remember the Building Bridges Initiative (BBI) Bill. The BBI Bill was killed because some people who thought they knew more than others put so much poison that it could not be consumed. So, we do not want to do anything that will not let us have the NG-CDF. I propose that every Bill should go on its own so that nothing poisons the other. If a Bill falls, let it fall by itself. We do not want something to spoil the broth that we will make.

When we talk about the Senate Oversight Fund, what we are forgetting is that there is Article 127(6) of the Constitution which gives Parliamentary Service Commission the authority to facilitate Members. Now, it is another matter as to whether Parliament has been doing this or if it is sufficient for Senate. We will have problems. The first question we will have to ask is if that provision that we are going to put is consistent with Article 127(6) of the Constitution.

Two, there is no institution called the Senate. The institution that the Constitution knows is Parliament. Did I say it the other way round? There is nothing called the Senate in terms of the Constitution. What the Constitution knows is Parliament. So, you cannot talk about giving oversight to a specific body as though you want to change the institutions that run around

it. You will have a constitutional problem. Until you change Article 95, which cannot be changed without a referendum, you will have a technical problem of one amendment running contrary to the other.

Three, on the oversight issue, let us not make people think that the NG-CDF is money for us to put in our pockets. That we use it to enrich ourselves. I have heard people say that just because there is an Oversight Committee in NG-CDF, we can use the Oversight Committee to do things. No! Even us we need money for oversight. Our role under Article 95 of the Constitution is oversight. It has nothing to do with NG-CDF. The NG-CDF is people's money.

(Applause)

So, we also need the parliamentary oversight money so that we do our job. Again, you will have a problem with that thing you call economic stimulus with the mandarins at the Treasury. We do not want the fight in the Executive to come and spoil for us a good thing in NG-CDF. So, I beg to support, but, please, let them draw a small caucus that will help them clean up this Bill so that when it comes to the Floor of this House, it sails through.

Thank you.

(Applause)

The Temporary Speaker (Hon. Omboko Milemba): Very well. There are a number of interventions here that I think were for the earlier matter. We have Hon. Yusuf, Hon. Ali, Hon. Robert and Hon. Geoffrey with interventions. You can remove them so that we can have the Members who have keyed in for this debate.

Next we will have Hon. Clive Gisairo of Kitutu Masaba.

Hon. Clive Gisairo (Kitutu Masaba, ODM): Thank you, Hon. Temporary Speaker. Let me also thank Hon Gichimu and Hon Mule for bringing this proposed constitutional amendment to the Floor of the House. Today, as we sit here, poor Kenyans are watching us keenly because we are their representatives. The NG-CDF has changed lives back in the villages. Today as I speak, most of my constituents... Kitutu Masaba children are on extended holiday because they are not able to report to school. They are on forced extended holiday. We may want to cite NG-CDF as money for MPs, but that is not the truth. No MP has his children going to school courtesy of bursaries. This is money for the poor. So, we have to support this amendment so that we have it firmly anchored in our Constitution to ensure that the poor child is protected and guaranteed to go on with school.

We have infrastructural funds that are usually given by the Ministry. However, the money is not distributed equitably. Some areas have never received that money. For example, a national school received over Kshs160 million whereas all the schools in my constituency received peanuts. They do not have laboratories and classrooms. So, this can only be done by the NG-CDF. It is the only fund that touches the poor. We are here because the people who lined up to vote for us were the poor. Very few of us were voted by the rich. So, as we sit here, let us know that our key role is to defend the poor and passing the NG-CDF is one of the ways of doing so.

While at it, I propose, as one Member stated, that Hon. Mule and Hon. Gichimu include in the NG-CDF Bill provision of water. This is because as we increase the allocation to 5 per cent, it means more funds will be available. So, let us have water covered in this Fund to help communities get water. Also, the allocation for sports should be slightly increased from the current 1 per cent of the total allocation. Sports is a key activity in our communities. That provision will help us nurture talents and support the youth. It should not be just about education. Some youth are talented in sports. Let us have more funds for the youth. It will

promote them in their respective fields of sports and any other extra-curricular activity that they wish to thrive in.

I stand here as one person who was educated through bursaries. I know the importance of this Fund. If we do not have this Fund anchored in the Constitution and if we do not walk together for the sake of poor Kenyans out there, we will have let ourselves down. I support this amendment. As a Member of the NG-CDF Committee, we will work together to make sure that this Fund is passed and the poor in the villages get what is theirs.

Thank you.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Rebecca Tonkei, Member for Narok.

Hon. Rebecca Tonkei (Narok CWR, UDA): Thank you, Hon. Temporary Speaker. First of all, I thank the almighty God for giving me the opportunity to serve in this august House. I stand here to give my maiden speech. In fact, Hon. Temporary Speaker, I have been inserting my card since I was sworn in. Unfortunately, I have never caught the Speaker's eye. All the same, I want to thank you for giving me this opportunity. I also thank the people of Narok for giving me the opportunity to serve in this House. I know being here is not an easy thing and Members will agree with me that to be here it takes the hand of God. We went round looking for votes and, at the end of the day, the Lord gave us the opportunity to be here. I thank God because I was once here as a staff. I have worked in Parliament in the Research and Human Resource departments. Therefore, being here for me is an opportunity that I cannot take for granted.

Hon. Temporary Speaker, I know the Maasais. The people of Narok County are waiting upon me to serve them. I promise that I am here to serve them as they gave me that opportunity. There are so many youth out there who are not employed. There are many trained teachers but they have never got an opportunity to be employed. Being in the Departmental Committee on Education, I know I will be their voice. There are also many teachers out there who are frustrated, especially by the issue of delocalisation. In fact, Narok County is highly affected by delocalization. I thank the Member who brought the Motion on delocalization in the House so that we can amend this policy. In Narok County, the delocalised teachers are more than those who are employed. So, being that we are employed by the people, we are going to fight this to ensure that we get the right number of teachers equivalent to the ones that are posted out of the county.

Hon. Temporary Speaker I know there are many problems that are facing the people of Narok like infrastructure, of which I am a victim. Hon. Pareyio will agree with me, coming from Narok North, that it is one of the worst hit places when it rains. Getting home is even a problem. For over 50 years since Independence, Narok has no roads. It is a big challenge which Hon. Pareyio and I are going to address.

I want to also talk about teen pregnancies, which is a big issue. Right now, we are facing a challenge in schools. We have 741 girls who are pregnant and they are not in school. I want to tell the people of Narok County that I am here as *Mama County* and we will address all those issues.

Hon. Temporary Speaker, on the issue of the amendment of the Constitution, I support it. Whenever we go back to the counties, we are met with many parents. My county office is flocked by people waiting to see if Members can support their needy children who cannot afford school fees. This Bill is timely and we are going to give it full support so that the monies can be disbursed and our people get bursaries. Funds will be made available to women who are waiting to do business.

Hon. Temporary Speaker, I submit by supporting the proposal to amend the Constitution. Thank you.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Member for Mandera East.

Hon. Hussein Weytan (Mandera East, ODM): Thank you, Hon. Temporary Speaker for giving me this opportunity. This is a very important Bill as National Government Constituency Development Fund (NG-NG-CDF) has really changed the lives of our people. It has played a very important role especially in the marginalised areas in this country. In Mandera where I come from, before the NG-CDF, we had no projects, no bursaries for our students, and no administrative office blocks, including for chiefs. The NG-CDF changed all that. It has built schools, offices for our chiefs, and houses for our security officers. Since we came in as MPs in August, there has not been any money from the NG-CDF released. Therefore, students and parents are having problems. So many needy students are out of school. We expect this Bill to move very fast so that NG-CDF is entrenched in the Constitution and the needy students are assisted.

Just last week, I was in my constituency and the chiefs were complaining that they are working under trees. In these modern times, we cannot accept our chiefs to work under trees. I expect to build as many offices as possible for my chiefs and police officers so that they are motivated to do their jobs as required by the law. I also support the increment from 2.5 per cent to 5 per cent so that we can carry out more projects and more students can benefit from the funds. I also request the drafters to open the Fund up because currently it is only open to security and education. This is so that we can buy agricultural equipment for our people. In Mandera we have “*Uza Dawa*” and their farms on the river banks. People require agricultural equipment so that they can carry out their activities, but our hands are tied. Why? Because the money from the Fund cannot be used to buy such equipment. We are only allowed to invest in educational and security activities. If we open it up, we can do as many projects as possible in different departments. We also need to use this money to build low-cost houses for the needy people. This is possible. If we have a budget, we can use this money appropriately in many projects.

I, therefore, support the idea of this Bill and expect it to be fast-tracked. I request the National Treasury to release the funds and not use excuses to delay release.

The Temporary Speaker (Hon. Omboko Milemba): Very well. The Member for Igembe Central is next.

Hon. Daniel Karitho (Igembe Central, JP): Thank you, Hon. Temporary Speaker. First, I congratulate Hon. Mule and Hon. Gichimu for proposing this Bill. The NG-CDF has been a very important Fund to every Kenyan. It is the only Fund that stands for everyone, regardless of where you come from, the party you are affiliated to, or the number of terms you have served in Parliament. It truly serves every one equally. It is given to the communities that we represent to improve their living standards mostly through education and security. With this Fund entrenched in the Constitution, it will be guaranteed for the future. No other Jack or Dick will go to court to suspend it.

I support this idea because right now, we have very many children at home. The education standard is paralysed. The government policy on 100 per cent transition needs a lot of structures, which can only be put in place with the NG-CDF funding. If you compare the NG-CDF with other funds in this country, the most visible development is from the NG-CDF. That is why increasing its allocation from 2.5 per cent to 5 per cent is a good idea. It will bring more development, finance more structures and pay school fees for more children. This Fund would serve better if it is distributed to constituencies on the policy of ‘one-man, one-vote, one shilling’. A constituency with 10,000 or 15,000 people should not be allocated an equal amount as one with 200,000 people. Everybody should get an equal share, so that the Fund can serve us equally.

Senior lawyers have spoken about other funds. I believe they have given the necessary advice to the two Members. This Fund will be fully protected. We look forward to having its allocation increased to continue serving us. Let us support and work very fast on the Bill for

our children to go back to school. All infrastructure development in my constituency are courtesy of the NG-CDF. With the increment of the Fund, we look forward to putting up more structures and supporting more children.

Thank you for this opportunity and may God bless us all.

The Temporary Speaker (Hon. Omboko Milemba): Very well. The Member for Mbeere South is next.

Hon. (Eng.) Nebart Muriuki (Mbeere South, Independent): Thank you, Hon. Temporary Speaker for giving me this opportunity. I join other Members in congratulating the two Members who have brought the proposal to have the NG-CDF anchored in the Constitution. As it has been said, the NG-CDF is the only visible fund in our constituencies. Other government departments have responsibilities and they are allocated funds, but their impact is not visible. For example, if we talk of health, there is always an outcry over hospitals having no medicine. Sick people who cannot afford medicine end up at the Member of Parliament's house or office to seek support. We know that all deaths and other natural disasters end up at the member's house, yet there is a disaster fund. What am I trying to say? Members of the public are not aware of the other funds which are supposed to help them, and the only thing they know is the NG-CDF. Everything affecting poor citizens is channelled to the Member of Parliament for support, irrespective of whether it is a national Government or county government responsibility.

I support the broadening of the scope of the NG-CDF to enable Members to effectively cater for their constituents who voted for them. It has been said that water is a major issue. Most of us from the ASAL areas end up spending our own money to support schools with clean water. If water supply was covered by the NG-CDF, it would be easy to provide water to schools and to communities.

Other government departments which get their funding also resort to the NG-CDF for support. For example, there are several cases where government administrators have approached the NG-CDF to ask for money to purchase land to put up government structures. That means that this Fund is recognised not just by the citizens that we represent, but also by other government departments. They recognise it as a Fund being utilised properly to support every sector.

It has been proposed, and I second, that this Bill should not be bundled with others. Let it stay on its own. We need to have the NG-CDF Bill on its own and other funds on their own Bill because the Fund has been tested and its impact has been seen in the country. On increasing its allocation to 5 per cent, I propose that it is increased higher. Like I said, there is a disaster fund, but it does not cover us well even at this time when we are experiencing drought. If the disaster fund is included in the NG-CDF, every constituency will cater for whatever disaster facing it.

Thank you, Hon. Temporary Speaker, for the opportunity.

The Temporary Speaker (Hon. Omboko Milemba): Very well. The Member for Dagoretti South.

Hon. John Kiarie (Dagoretti South, UDA): Thank you, Hon. Temporary Speaker. First, this House is finally doing business after being done with the preliminary issues that we were prosecuting in the last few weeks. I feel that we are now in the real business of the House. It is commendable what Hon. Mule and Hon. Gichimu have done by presenting such an impressive legislative proposal that seeks to amend the Constitution to entrench decentralised funds in our Constitution.

I am from a constituency that has seen the impact of a decentralised fund in the name of the NG-CDF. In the last five years, Dagoretti South Constituency has built five new high schools from scratch to completion that are now being used by its residents. We have moved all our chiefs from *mabati* structures, and currently, none of them is in a *mabati* structure. They

are in very good, habitable modern offices. We have built police station upon police station. In fact, in the grand ultra-modern Riruta Police Station, which is multi-stored, a digitised Occurrence Book (OB) is in the computer there. We have built the Mukarara Central Kitchen, out of which we feed 10,000 students every day. The kitchen has a capacity of feeding up to 20,000 pupils in our comprehensive school feeding programme. This is just to mention a few of the things that NG-CDF can do if well managed, overseen and superintended. That is why I rose to support this Motion. In fact, when it comes to the Committee stage, I shall be proposing some amendments. These amendments are actually Bills to this proposal. The House was very wise in having a pre-publication conference, where Members ventilated, and put in some bits so that the proposers can draft a Bill and include some of these amendments.

It is my view that if the NG-CDF is working well for constituencies as a decentralised fund, we should be thinking about how much further can we decentralise funds. That is why the amendment that I seek to bring is to amend Clause 204 to introduce a new segment; Clause 204(E), which will seek to further establish an Equitable Development Fund which shall be a county government fund. This fund shall consist of money of not less than a certain percentage of the share of the revenue that is allocated for each county as divided by the County Allocation Revenue Act enacted pursuant to Article 218 of the Constitution. This clause, in its second part, will read that:

“All money allocated under this Article shall be considered as funds allocated to wards pursuant to Article 207(2)(a) to be administered in accordance with the provisions of an Act of Parliament;”

and

“(c) Parliament shall enact legislation to make further provisions for operation of this Article.”

I had thought that I would push a Floor amendment, but I later got to understand what we are doing this afternoon. We are doing a pre-conference. I note that even as we speak, we have, in the Speaker’s Gallery, Members of the County Assemblies (MCAs) from different counties. We have Hon. Mwaura, Hon. Mutie and Hon. Amina from Nairobi City County, who are here to see if Members can be magnanimous enough to see, as they enjoy the CDF, whether we can unlock what MCAs have unlocked with their governors. Let us see how we shall decentralise funds further. We have seen the effect of decentralising funds, the impact they have and the benefits they accrue for the good of this nation and for the people who elect us. This is the work we came to do in Parliament.

Thank you for the opportunity.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Adan Haji, Mandera West, if he is in the House.

Hon. Yusuf Adan (Mandera West, UDM): Thank you so much, Hon Temporary Speaker, for this opportunity. I sincerely thank Hon. Gichimu and Hon. Mule for having brought this Motion at the right time. As we know very well, the NG-CDF is the only devolved fund that is in every corner of this country. It is the They are the only funds that are visible in the most rural areas in this country. All the activities have been undertaken by the NG-CDF unlike other funds like the county development funds, which after communities do some work, there is delay in payment for years.

Hon. John Kiarie (Dagoretti South, UDA): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Kiarie, what is out of order?

Hon. John Kiarie (Dagoretti South, UDA): Hon. Temporary Speaker, it is not in my place to interrupt the esteemed ranking Member, Hon. Yusuf, but this is critical because we have been having very many fights about this fund, especially with institutions that do not understand how the NG-CDF works. It is not in order for Hon. Yusuf Adan to refer to the NG-

CDF as a devolved fund. In fact, one of the biggest problems we are having is when people imagine that the NG-CDF can undertake devolved functions. I wish Hon. Yusuf could refer to the NG-CDF as a decentralised fund that does national Government functions in constituencies, and not refer to it as a devolved fund.

The Temporary Speaker (Hon Omboko Milemba): You may continue.

Hon Yusuf Adan (Mandera West, UDM): Thank you very much for correcting me. You are very right. This is not part of the devolved fund. It is part of the central government fund that has reached the remotest areas.

The payment schedules of the NG-CDF are very prompt, unlike other funds. Even contractors who do classrooms, police stations, or chiefs' offices prefer the NG-CDF projects to big projects from the counties which sometimes take three, four or even five years to be paid. Projects that are done by the NG-CDF are community felt need. The processes that are undertaken involve all community sectors, namely, women and the youth. They come up with their preferred projects and ultimately, the projects that are done become the serious felt needs of the community.

Wananchi, wherever they are, talk about the NG-CDF. Since we were elected in August up to now, there is no NG-CDF funds that have been released. A lot of students are dropping out of school because there are no bursaries. We have bursary allocations from other funds, but the ones which are really felt, the ones that do some job and which students highly rely on and make sure students are in school to study, is the NG-CDF. What was taken to court is the Constituencies Development Fund (CDF) and not the NG-CDF. Therefore, I urge the National Treasury to release the NG-CDF funds with immediate effect. This is so that our parents, who have been seriously hit by drought and who lost their livestock, can take their children to school through the NG-CDF come January. Therefore, it is my request that the National Treasury releases the NG-CDF money with immediate effect, so that it can be processed.

Finally, I think expanding it to 5 per cent is a noble idea.

The Temporary Speaker (Hon. Omboko Milemba): Okay, very well. Next to speak on this is Hon. Joseph Gitari, Kirinyaga Central.

Hon. Members, I really ask you to be patient. We are actually following the queue and trying to make sure that there is fairness. I am very happy about ranking Members who are patiently in the House. I can see them here.

You may proceed.

Hon. Joseph Gitari (Kirinyaga Central, UDA): Thank you, Hon. Temporary Speaker, for giving me this opportunity. I congratulate Hon. Gichimu and Hon. Mule for bringing this timely debate.

From the onset, I would like to remind Kenyans that what was annulled in court was the CDF Act, 2013. We still have the NG-CDF Act, 2015. I was in the 10th and 11th Parliaments, and I know how these two Acts came into place. So, I urge the Cabinet Secretary in charge of the National Treasury not to shy away, because we are covered. As I speak, we have children at home. We are receiving calls because we do not have money for bursaries, bearing in mind that the Form Fours and Class Eight pupils are about to sit for their exams soon. Even the others in Grade Four are about to go to junior secondary school. It is a critical moment. We are supposed to be having that money so that we can clear issuing bursaries to avoid interruption of Form Four classes.

The NG-CDF was active when I served in the 11th Parliament. There were no restrictions as such, because many functions were not devolved. I clearly remember that we did 11 dispensaries in Kirinyaga Central. About six or seven of them are still running. Things changed when these functions were devolved to county governments. If you go to any constituency or county, you can show what the NG-CDF has been doing since Hon. (Eng.) Muriuki Karue started it. If you go to any part of the country, you will find the NG-CDF offices

and chiefs houses. When I served as the Member for Kirinyaga Central in the 10th and 11th Parliaments, we housed all the chiefs and assistant chiefs. We even went ahead and did houses for the police at Kerugoya Police Station. If we go to any constituency and compare the NG-CDF with any county development projects, you will be shocked, because the NG-CDF projects are very many.

I want to agree and disagree with some of our colleagues. I was imagining that as much as the provision of the Constitution does not envisage it for the Senate, we need two-thirds in these chambers at the end of the day. We need our colleagues in the Senate to support this two-thirds gender rule. You remember the Presidential Address during the opening of this Parliament and His Excellency the President said that he knows what the NG-CDF has done in this country. I remember that he, at a point, said that we should look at the laws and see where we can incorporate them in the National Assembly and in the Senate, so that we can have some funding for them. I want us to embrace our brothers in the Senate so that can, at least, gather the two-thirds majority.

I support this move. We will be causing some amendments at the right time because we have to think about what is happening to our counties. There is the proposed Ward Development Fund initiated by Hon. Kang'ata, who is a Governor now. I think it is important so that we can have some equalisation, and even if you do not support whichever kind of government, you are entitled to some development within your ward or constituency. I support this motive and we will be moving some amendments.

The Temporary Speaker (Hon. Omboko Milemba): Very well. Hon. Gitonga Mukunji of Manyatta is finally there. Proceed.

Hon. Gitonga Mukunji (Manyatta, UDA): Thank you, Hon. Temporary Speaker, for the opportunity. I first want to take this opportunity to congratulate fellow Members, Hon. Mule and Hon. Gichimu, for this very important proposal. The NG-CDF is a Godsend fund to this country. Article 53 of the Constitution 2010 has been actualised through the NG-CDF. We have also done a lot on improvement of security with the NG-CDF under Article 27 of the Constitution.

I know many Members will agree with me that they were very scared on the way forward when the story of the NG-CDF was illegalised by the courts. The work that the NG-CDF does mostly guarantee all the Members ability to serve their constituents. Just yesterday, I got calls to visit one of my schools in the constituency, which was hoping to benefit from the NG-CDF by getting some classes because they do not have classes. Students learn under the shade and some shady places. I really welcome this House's move to have the NG-CDF anchored in the Constitution, and rightfully so, because it is possible for this House to amend the Constitution under the guidance of Article 256. I really hope that this process can go uninterrupted so that we can have that fund as soon as possible.

I agree with the Member who suggested that Members should have a caucus to discuss this issue so that it is ready to pass when it comes here. I also hope that Members will participate and ensure that we have public participation. If there is one thing that has public goodwill, it is the issue of the NG-CDF. The development on the ground speaks for itself. Just to add to what many have suggested, I hope that the 5 per cent increment happens so that we can do everything that is possible.

I also propose that we have a sharable and equitable way of handling the NG-CDF. I have spoken to a few Members with three or two wards in their constituencies, and their NG-CDF figures are similar with my constituency, which has six wards. I want to propose one-man, one-shilling for the NG-CDF, so that we can have fairness when serving our people. I look forward to doing a lot using the NG-CDF in the Technical and Vocational Education and Training (TVET) institutes, which are the only hope for our young people to get into the job market and serve this country.

Hon. Temporary Speaker, I benefited a lot from bursaries when I was in school. So, I propose to do maximum bursary disbursements using the NG-CDF. I really support these proposals.

The Temporary Speaker (Hon. Omboko Milemba): Very well, your time is over. Hon. Anthony Oluoch, Member for Mathare.

Hon. Anthony Oluoch (Mathare, ODM): Thank you very much, Hon. Temporary Speaker. First, I want to congratulate both Members, Hon. Mule and Hon. Gichimu, for this timely Bill. Secondly, I want to thank the Speaker and the House Business Committee (HBC) for the ingenuity of availing the opportunity of a prepublication Motion that will allow Members to ventilate, thus obviating the very rigorous processes which happen before getting this.

I want to urge the Speaker and the HBC to use the same ingenuity to obviate the 90 days prepublication period or the period said to be mandatorily undertaken before this is brought to the House for conclusion. Lastly, on these preliminary points, is to ask the HBC and the Speaker to use the same ingenuity to ensure Motions that Private Members discuss on Wednesday morning also have a similar prepublication platform with similar weight. So, from here, they go directly to drafting and then become Bills.

Let me make my quick powerful points. I will start with three quick things which I think we need to do. First of all is the question of time. I have listened to what the Members have said, and it all comes to this, that unless this Bill is drafted and filed timeously, the people who I refer to as perpetrators of executive conspiracy against Members are waiting in tow so as to ensure that the question of this judgement being delivered in court by December takes place before this Bill is assented to. Unless this is done timeously, all that we are doing here will be of no effect.

Hon. Temporary Speaker, this House must peg the bringing of any other serious Government Bill, including the supplementary budget that will come, to the question of this Bill having been debated and passed, or in its place the National Treasury releasing all the funds due to the 290 constituencies.

I also want to raise a red flag on this issue because along the way, we will find crocodiles which we need to deal with. There is a monster in Article 115 of the Constitution, which I raised in the previous Parliament, and your predecessor ruled against. We need to watch it after we pass this Bill, which I am sure we will.

Article 95 allows the President to refer back a Bill under Article 115(6) to the House with a memorandum and the possibility that unless we raise a two-thirds majority, then he overturns essentially what was passed. The effect of this, which I argued in the previous Parliament, is it imports what they call in the United States of America (USA) the line-item veto amendment, which is unconstitutional. It allows the Executive Head of Government to become a legislator through the back door by returning a Bill, which if you cannot raise two-thirds, becomes law.

So, this is something we must look at. Therefore, the people who will be in the caucus championing this Bill must not only look for bi-partisanship between the Senate and the National Assembly, but for acceptance and acceptability with the National Treasury, the Attorney-General and other stakeholders. They should also look for political good will from the Executive Arm of Government, and in particular the President so that this is passed.

Mr. President... Sorry, I mean, Hon. Temporary Speaker, I also want to support – maybe I am wishing him good tidings by referring to him as Mr. President. This is futuristic. Lastly, I want to agree with Hon. TJ Kajwang³, that we must separate these Bills. They must be four separate Bills in terms of the NG-CDF: The National Government Affirmative Action Fund (NGAAF), the Senate Oversight Fund, the Economic Stimulus and the Empowerment

Fund without demeaning the NGAAF Funds. I believe they are in equal standing as the NG-CDF fund.

Hon. Majimbo Kalasinga (Kabuchai, FORD-K): Thank you very much, Hon. Temporary Speaker, for giving me this time to add my sentiments on this very important initiative. You realise that we come from a constituency, and every Thursday when we leave to go back to meet our people, we get thousands of children in different school uniforms, in our compounds waiting for financial support.

Before, this was done through the NG-CDF bursaries, which we do not have because they were not released this term. I take this time to ask the Cabinet Secretary for the National Treasury and Planning to expedite the disbursement of this fund, which was due to us this financial year. We do not want that money to come in bits, but to be released at once, so that we can work with it.

Looking at the NG-CDF and those who engineered it, it has done well, increased and progressed. When we speak of 2.5 per cent that was then, as we progress in revenue collection, according to me, 5 per cent is okay. When you look at Gottlieb Daimler and Carl Benz, these two people manufactured the Mercedes Benz. The first Mercedes Benz had so many problems, but the current one is modified to standard. We want to modify the NG-CDF, increase its percentage and what it does.

By raising this money to 5 per cent, we want to take care of the constituency roads, which we rely on the Kenya Rural Roads Authority (KeRRA) to build, but they have very little money. We need to take the issues of employment because when we release these funds to local contractors to build classes in our constituencies, they use local *fundis*, and this money percolates down to our people. That way, we raise their economic standards using the NG-CDF.

Without forgetting that we want a green government, and for us to attain 10 per cent forest cover in this country and improve our environment, when we increase the percentage that the NG-CDF offers, we shall attain this. I have a lot of respect for those who brought the NG-CDF. Before this, you could find two policemen sharing one house; one married and the other one single. The rooms were not separated and shared by both officers in the same house. Some were denied conjugal rights because of sharing rooms since the other one without a wife will have issues. However, the NG-CDF has built houses for policemen. In this country, you get policemen in different houses staying very well as officers. Therefore, we must promote the NG-CDF, and anyone standing in its way does not understand.

Hon. Temporary Speaker, nowadays you cannot watch television. If you are watching news, what you see are tears from students who were beneficiaries of the NG-CDF crying alone. When I watched news yesterday, there was a story about one student from Kisii from Kibabii High School who dropped out of school and is sitting at home. His parents said that he will stay home for more than three months as they look for money. It is high time that when one moves to court, they first assess why they are doing so.

[The Temporary Speaker (Hon. Omboko Milemba) left the Chair]

[The Temporary Speaker (Hon. Peter Kaluma) took the Chair]

When you come to Kabuchai Constituency, Kabuchai Girls High School, which has never had a bus, had one provided for them by the NG-CDF, a beautiful bus for our girls to use. The NG-CDF has done serious and good things for this country. We must promote it.

Looking at the way it has been put out, we only have to entrench it into the Constitution. We have caterpillars, which are small animals...

The Temporary Speaker (Hon. Peter Kaluma): Let us have Hon. James Nyikal.

Hon. (Dr) James Nyikal (Seme, ODM): Thank you, Hon. Temporary Speaker, for giving me the opportunity to contribute to this.

I will be very brief. The reality of what is happening here is extremely simple. We have an institution that has been working, and was there before we promulgated the Constitution of Kenya 2010. We then promulgated the Constitution and now there are doubts that have been created about the NG-CDF. If you look at it carefully, this is basically a continuation of the implementation of the Constitution.

There are those who feel that the NG-CDF is part of the devolved funds.. It is not. This is a national fund which is being implemented at the constituency level. I do not see why we cannot proceed to amend the Constitution, so that it is in line with the NG-CDF. People are not made for laws, but laws are made for people. This is an institution that is working. We have all listed what the NG-CDF has done and achieved. We have even looked at Chapter Four of the Constitution on the Bill of Rights in terms of children getting education. That is part of this. Mine is just to say that this is part of the completion or continuation of the implementation of the Constitution, so that the NG-CDF is in line with it. It is just some people who have created doubt. I support this legislative proposal.

I am not so sure about bringing along the NGAAF and the Senate Oversight Fund. However, I think our colleagues who have brought this legislative proposal might have to look into that. What are the merits of those two funds when discussing this extremely important proposal? To a large extent, we should stick to the NG-CDF. The role of the Senate is clearly stated in Article 96 of the Constitution. I do not see why we are bringing in the Senate Oversight Fund at this point.

I will only support the Economic Stimulus and the Empowerment Fund. It has come about because when the Women Enterprise Fund was established, it was for women. The Uwezo Fund was for the youth, persons living with disabilities (PWDs) and women. The Youth Fund is for the youth. There has been a huge cry amongst men on how we can support them with these kinds of funds. Therefore, perhaps that is something we should look at.

In my view, this is a simple matter. The Constitution should not stop a useful function, something that even if you were to go to a referendum, it will literally pass. We are changing the law to serve us. The law cannot stop us from getting the services we need.

With that, I support this proposal. The proposers should look at it in detail, take out the aspects that we do not need, and remain with those that we will go with. I urge all my colleagues to fight for this and ensure that it is passed.

The Temporary Speaker (Hon. Peter Kaluma): Let us have the Member for Kesses, Hon. Julius Rutto.

Hon. Julius Rutto (Kesses, UDA): Thank you so much, Hon. Temporary Speaker. Congratulations. Seeing you sitting there for the first time feels good. Allow me to take this opportunity to also contribute to this very important matter that has come before us. I congratulate Hon. Mule and Hon. Gichimu, who thought it wise to bring it to our pre-publishing conference.

Indeed, as you have said, the CDF, even prior to the NG-CDF, had done marvellous work. I remember when I was young back in my village, there was a school called Kesses High School, which is now St. Catherine's Girls High School. One day, a chief and some *wazees* were moving around the village forcefully taking cows and selling them to build a school. However, with the coming of the NG-CDF, we have seen many good schools rising up. From the basic level down there, our children can access school like the others.

Article 10(2)(b) of the Constitution discusses the real intention of the Constitution in facilitating equity, inclusivity and the right to access services like education, among Kenyans. As we all know, education is the key driver of transformation. It is a key equaliser of all people, both poor and rich. At this point, it is very critical for this honourable House to have this discussion and carry out the amendments to the Constitution, so that we can mainstream this fund. This fund has necessitated the intention of the Constitution.

A few months ago, we saw the courts giving a ruling quashing the NG-CDF. I have heard some people say that the NG-CDF was not touched. Currently, however, the National Treasury has not released the funds. Back in our villages, our communities are suffering. Children are at home and are not going to school. The NG-CDF helped a lot by giving out bursaries to the poor in our society. They were able to compete with the privileged to achieve the same position and compete for resources and positions. It is high time we had this discussion and looked at the intention, not the interpretation of the Constitution, as it has been said. I call upon the Attorney-General to move quickly, now that he is officially in office, to advise the National Treasury to release the funds, so that we can address the challenges facing the society.

I agree with Hon. *Daktari*, who said that laws are made for people, not people for laws. In this case, as we look at this legislative proposal, let us also look at the supporting legislations, such as the Public Procurement and Asset Disposal Act, because the main objective is to spur economic growth in every sector of every region in our country. The NG-CDF is the only fund that can go down to the village to help the people. We should allow the Public Procurement and Asset Disposal Act to accommodate people in the villages, so that this money can be retained and improve their lives.

Lastly, we are facing the challenge of youth unemployment as a country. As we look at this amendment and future amendments to the legislation, my proposal is to see to it that the NG-CDF can support our youth, their talents and give them equal opportunities. That includes supporting those who have the desire to go outside the country to seek opportunities. That way, we can export our skills and bring in foreign exchange in the long-run through cash transfers coming into our country. This will build our households, our economy and give our youth hope.

With those few remarks, I thank you very much. I support the legislative proposal and look forward to supporting the amendment of the Constitution.

The Temporary Speaker (Hon. Peter Kaluma): Let us have the Member for Kamukunji Constituency, Hon. Yusuf Hassan.

Hon. Yusuf Hassan (Kamukunji, JP): Thank you, Hon. Temporary Speaker, and congratulations. This is the first time I have seen you in the seat. There is absolutely no doubt that the NG-CDF is the most impactful and life transforming development project in Kenya today. It is a remarkable and a revolutionary concept which has had a remarkable impact on the lives of poor people. In fact, it is so good that this concept has been copied and implemented in many countries in the world, and Kenya is a leader in that. It is a concept that meets the urgent needs of the Kenyan people more than any other development project. I represent one of the poorest urban neighbourhoods in the country. I have more than 124,000 people who are considered to live below the poverty line, and who need assistance at many given times. The NG-CDF bursaries have made a lot of difference among those marginalised people of my constituency. Thousands of children who normally would not get support to go to universities, technical colleges or secondary schools have gone to school for the first time in their lives. I have come across fathers and mothers from these marginalised communities who tell me that for the first time in the history of their families, they have a university graduate in the family. This is remarkable.

I have also seen how this fund has been used to expand education and educational opportunities. We have built a technical college which now has 700 students. We have built

two new secondary schools just for girls, that have 1,800 students. Girls did not have a secondary school when I became a Member of Parliament. This is done by the NG-CDF, and not any other government fund. You know the people who are taking the NG-CDF case to the courts are the ones who work in Non-Governmental Organisations (NGO). These are people who are members of the bourgeois community who live comfortable lives in areas like Karen, Lavington, Kitisuru and Muthaiga. They live in posh houses and their children are driven in top-range four-wheel drive vehicles to private schools. These people do not understand the difficult lives of our ordinary people. That is why they use the resources they have to punish Members of Parliament. However, they do not punish Members of Parliament because Members are not affected and their children are not affected. These people are waging war against the ordinary poor people of Kenya. These are sadistic miserable people who, I think, are using their time negatively.

We do not need to be a country of scores of millionaires and millions of poor people. We do not want to continue to perpetuate inequalities and the social injustices that exist historically in our country. We want to change that. The NG-CDF has changed and made an impact. That is why we need to move forward. I support and congratulate *Mheshimiwa* Stephen Mule and *Mheshimiwa* Gichimu Githinji for bringing this Motion. I call upon the government not to waste any time by holding the NG-CDF funds. Release the NG-CDF funds while we are working on long-term solutions to this particular problem so that we can entrench the NG-CDF in our national laws, and make sure that we meet the needs of our poor people.

Hon. Temporary Speaker (Hon. Peter Kaluma): The Member for Emgwen, Hon. Josses Lelmengit,

Hon. Josses Lelmengit (Emgwen, UDA): Thank you, Hon. Temporary Speaker for giving me this opportunity to support and contribute to this important Motion on anchoring the NG-CDF in our Constitution. It is a privilege to represent my people for Emgwen Constituency in this 13th august House. I speak before this chamber on their behalf. I owe a great debt to my constituents, whose journey with me began way back when I was a little boy, whose education was supported by the community through the CDF and *harambees*. I still recall vividly when I dropped out of school in Form Two because my parents could not afford to pay school fees. I went to do casual labour of fixing tire punctures for motorbikes with the hope that I would make money and go back to school. I stayed there for one year until the community came to my rescue. They did a fundraiser and I went back to school. I did not go back to a boarding school, but joined a day school called Tulen Secondary School. The CDF bursary enabled me to clear school. I worked hard, excelled and made it to JKUAT. I am here in Parliament as the Member representing the great people of Emgwen Constituency. I am saying this because I support the NG-CDF fully, so that other students can have opportunity to be great people of this country. The support I received from my constituents is invaluable, and I cannot repay them enough. To my constituents back home, please, know that each day I work tirelessly to represent you. I will fight for your interests in tea and dairy farming, and any other part of economic contribution.

We have challenges in Emgwen Constituency, especially in electricity connectivity rate, which is at about 35 per cent. I will work tirelessly with the rest of the Members so that we can make increase electricity connectivity in Emgwen Constituency. As a youth Member, I will also work to represent the youth back home to be their role model, to help them and support them in these hard-economic times.

I would also want to pledge my support to the President and the Deputy President in implementing the Kenya Kwanza plan, which is the economic liberation of this country. I hope my journey will be an inspiration, especially to the young generation of this country, in that present circumstances do not limit their future.

I beg to support this Motion and urge the rest of the Members to support that the NG-CDF be anchored in the Kenyan Constitution.

Hon. Temporary Speaker (Hon. Peter Kaluma): The Member for Bungoma, Hon. Catherine Wambilianga.

Hon. Catherine Wambilianga (Bungoma County, FORD-K): Thank you, Hon. Temporary Speaker, for giving me this chance to contribute on this Motion. I am fully in support of the NG-CDF, the NGAAF and all the proposed funds to be entrenched in the Constitution. This is a matter of interest, not just to Members, but also to the whole country. Our constituents are watching and they expect that the NG-CDF continues.

As I rise, I heard the voice of women where I work, and I stand for the affirmative fund, namely, the NGAAF. This fund has come in handy to supplement when it comes to school fees. So, when we talk about bursaries, when students fail to get bursaries from the NG-CDF, they always move to the NG-AAF.

In my county, for instance, I have taken the NGAAF as a rescue fund to take girls who have dropped out of school, back, and those who get early pregnancies to fund them to continue with their education. The NG-CDF, alongside the NGAAF, should be entrenched in the Constitution. When I look back, most of our children got educated through the NG-CDF.

As most Members have said, it is clear that back in our constituencies and counties, most students are in dire need. The messages we get are from students seeking help. I am a teacher by profession, and at school level, we never had good schools. However, with the NG-CDF, and even if you look around the constituencies, you will see great improvements on the kind of buildings and structures that have come up. Kimilili Constituency, where Hon. Didmus Barasa comes from, for instance, is a role model for most constituencies. Most of the schools there have storied buildings, which was a mirage back in those days. As I speak, this has come to pass.

The NGAAF has brought most women back to this House because the fund supported us back in our campaigns through the projects that we did. The projects we do include giving grants to women groups, empower the youth and PWDs, which are vulnerable groups which have been forgotten in the society. The little funds that get to the NGAAF is what makes this possible. This fund has gone a long way to support the humble people on the ground. In as much as we are waiting for the hustler fund, funds such as the NGAAF and the NG-CDF have been decentralised and get down to the person who is at the ground. I want to thank my colleagues, Hon. Mule and Hon. Gichimu, for bringing this Motion.

Thank you, I support.

The Temporary Speaker (Hon. Peter Kaluma): Thank you for using the least time to address the matter. Is Hon. Mark Mwenje, Member for Embakasi West, in the House?

Hon. Mark Mwenje (Embakasi West, JP): Thank you, Hon. Temporary Speaker. I want to support this proposal, and thank Hon. Mule and Hon. Gichimu for bringing it to the Floor. It is long overdue. It is the first time this Parliament will have a chance to amend the Constitution since it was promulgated in 2010. This amendment should be immune from the Judiciary and the Executive, and should have a by-partisan approach that we have seen so far.

As mentioned by some of our colleagues, we need to informally engage the Senate regarding these amendments so that we can ensure a smooth process and avoid any conflict of roles and laws that may come about. I would encourage the drafters, as they form a National Assembly caucus, to consider liaising with our colleagues in the Senate.

The NG-CDF is the most visible fund in this country today. Of the 290 constituencies that we have in this country, you will see what the NG-CDF has done since its inception in 2003 under the late President Kibaki. As a House, we should first protect this fund, which is the brain child of the then Parliament and the then President, who saw it fit to support the creation of the NG-CDF.

One of the things that I want to request, as we discuss, and I would be making amendment to the Act, is that we must consider population as well. For us, new Members, we noticed that the distribution was based on wards. I would submit that those of us who represent urban constituencies like mine in particular, where I have over 280,000 people, the population needs to be a factor. The way wards were created in 2010 was not fair. There are constituencies with more wards and lesser people.

Secondly, we have the Competency Based Curriculum (CBC). We will have junior secondary coming in, and before you know it... Members who have been here in the past have been giving bursaries to secondary school students from Form One to Form Four, for over four years. Next year, we will add a fifth year and a sixth year. We will, therefore, have more people coming to apply for bursaries. The issue of having the Act being challenged in court must come to a stop.

Hon. Temporary Speaker, right now, all Members are getting calls from their constituents that they need bursaries. Some of us still have dilapidated schools, and quite a number are overcrowded, especially in Nairobi, and with insufficient security apparatus in some of our constituencies, only the NG-CDF can remedy this issue.

As I finalise, there is an error in drafting it as the Senate Oversight Fund. It is important that we look at it as the Parliamentary Oversight Fund, because if we call it the Senate Oversight Fund, then it should be based on the revenue that has been allocated to the county. However, the way it has been drafted as a Parliamentary Oversight Fund, you can then get a share from the national cake. We really need to consider this.

I also believe the issue of the Economic Stimulus Fund should be separated from the other three funds. The other three funds should be conjoined so that they either pass together or we all perish.

Finally, I believe the 5 per cent will be the main issue. I really pray that we will not get compromised, as a House, by the Executive, so that we can protect this 5 per cent.

With that, I support.

Hon. Mugambi Rindikiri (Buuri, UDA): Thank you, Hon. Temporary Speaker. First, let me congratulate you. You are my senior, and I have not had the opportunity to congratulate you. In actual fact, you should have been there last year. I rise to support the amendment of the Constitution in reference to the NG-CDF.

Parliament has been given powers by the people of Kenya. Article 1 of the Constitution says that Parliament has been given powers by the people of Kenya to legislate on their behalf. I confirm that Hon. Gichimu and Hon. Mule are within the delegated powers by the people of Kenya. I want to thank them for taking this issue to this height, and wishing to amend the Constitution.

Why is the NG-CDF famous? It is not because of the money allocated to it, but rather because of the oversight by Members. Members have proved to be accountable, transparent and that they exercise equitability in the distribution of resources. That is why the NG-CDF is in every part of our constituencies. There is no conflict on the devolved functions between the county governments and the national Government.

Hon. Speaker, it is very clear that the National Government Constituencies Development Fund Act, 2015 is operating within the national Government functions. You are a lawyer. I have heard that the case was taken to court because we are operating under the national Government functions. The NG-CDF is in sports for our youths. The NG-CDF has created job opportunities for our young people such as contractors and artisans. We also have bursaries. It has also come in handy during emergencies such as now when there is a public outcry like on drought, environment and school infrastructure. I am a very proud Member of Parliament who has made it back for the second term because I oversaw the NG-CDF for the last five years. I ensured that every school in my constituency was touched by one or two

projects. I have constructed many police stations and we have put up 13 new laboratories in day schools in our constituencies. We have spent a lot of money on bursaries, sports and environment. The NG-CDF was brought in because the national Government was unable to fill some gaps that existed at the constituency level. These are the gaps that Members of Parliament are quick to notice and use the NG-CDF to fill. From what the Member for Mathare has said, I support and agree that we need to work out on ways of enacting this Bill. That is very critical. I also agree with Hon. T.J. Kajwang' that there are certain things we need to work on in terms of the process but we are all in agreement with the concept.

I support.

The Temporary Speaker (Hon. Peter Kaluma): Member for Magarini, Hon. Harisson Kombe.

Mhe. Harisson Kombe (Magarini, ODM): Asante, Mhe. Spika wa Muda kwa kuniona. Ningependa kumpongeza Mhe. Mule na Mhe. Gichimu kwa kuileta Hoja hii ambayo inaitisha marekebisho ya Katiba ili tuweze kuiweka hazina ya maendeleo ya Maeneo Bunge ndani ya Katiba.

Mhe. Spika wa Muda, isingekuwa hazina hii, sijui Magarini ingekuwa wapi. Nilipochukua hatamu ya uongozi wa eneo Bunge la Magarini mwaka wa 2003, tulikuwa na shule mbili za upili peke yake. Niliweza kutumia hazina ya maendeleo katika Maeneo Bunge na nikaziinua kutoka shule mbili hadi shule 27. Kufikia sasa, tumejenga shule 25 mpya za sekondari. Tulikuwa na waliohitimu na shahada za ualimu wakiwa ni watu watatu peke yake ndani ya eneo Bunge la Magarini lakini kufikia mwaka wa 2007, idadi hiyo ilikuwa imeongezeka hadi watu 400.

Mhe. Spika wa Muda, tukiangazia maeneo bunge mengine wakati huo ilikuwa wazi na hakukuwa na viziwi vingine. Tuliweza kujenga zahanati za kutosha katika kila kata. Vilevile, tuliwapeleka wanafunzi kusomea udaktari. Hivi tunavyozungumza, lengo na shabaha ni kuweza kuwa na chuo cha ukulima ndani ya Magarini, ambacho kinajengwa na hazina ya maendeleo katika Maeneo Bunge.

Tukiangazia elimu ya wasichana wetu, tumenuia kujenga shule mpya ya wasichana kule Marafa, ambayo itakuwa ni shule ya kisasa na siku za usoni itakuwa shule ya kitaifa. Kwa pande zote na kwa hali yote, hazina ya Maendeleo ya Maeneo Bunge ni hazina ambayo haistahili kuchezewa hata kidogo. Mtu yeyote anayepinga hazina hii, kwa lugha fupi, huyo ni mchawi wa maendeleo na anastahili kunyongwa. Ashindwe shetani!

Mhe. Spika wa Muda, hiyo asilimia tano iliyopendekezwa na ndugu hawa ninaweza kusema haitoshi kwa sababu kuna mambo ya dharura ambayo huzuka, haswa baa la njaa; na kama hatungekuwa na hazina, ingebidi tutegemee Serikali kuu. Moja kwa moja, ingekuwa ni kuingia katika mfuko wa hazina ya maendeleo ya Maeneo Bunge na tuweze kuwanunulia chakula watu wetu. Hivyo basi, ukifika wakati wa kurekebisha, nitapendekeza kuwa asilimia 7.5 itengewe hazina ya maendeleo ya Maeneo Bunge ndiyo tuweze kupata angalau shilingi milioni tano za kusimamia majanga maana siku hizi mambo mengi huzuka na kutatiza wananchi wetu.

Mhe. Spika wa Muda, ningependa kukomea hapo nikisema asante tena kwa kunipatia nafasi ya kuchangia Hoja hii.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Ferdinand Wanyonyi, are you on intervention or you want to contribute?

Hon Ferdinand Wanyonyi (Kwanza, FORD -K): I want to contribute.

The Temporary Speaker (Hon. Peter Kaluma): Please proceed.

Hon Ferdinand Wanyonyi (Kwanza, FORD-K): Lovely. Thank you. I have been sitting here for quite some time.

I want to take this opportunity to thank you and my colleagues, Hon Steve Mule and my *jirani* here. They have done something we did not do. I was in the NG-CDF Committee,

and we went all over the country to hear what people wanted. During public participation, they all agreed that the NG-CDF should be increased to five per cent. They said the reason was that land was becoming smaller because of population increase. School buildings were taking the form of storey buildings so as to economise on land. As mentioned by one of my colleagues, we must pass this Motion as soon as possible because it is the CDF Act, 2013 that went to court. The NG-CDF, 2015 has no issue and, therefore, I take this opportunity to ask the leadership of this House to request the Executive, led by His Excellency the President, to release the NG-CDF money. People, including myself, are now complaining. I had problems and commitments hoping that I would get the money but it is stuck. The leadership of this House should take up this matter so that His Excellency the President can order the National Treasury to release the money so that as we go on with the amendment, students can go back to school and development projects can commence.

Another thing is that we should have a caucus here and have this discussion as soon as possible so that we can record whatever amendments we want to make to the NG-CDF. It is important that we do so as soon as possible because some busy-bodies out there, as my colleague has just mentioned, are busy doing nothing but opposing because they have nothing to lose. We, as Members of Parliament, do not need the NG-CDF. It is the communities we represent in this House, comprising of poor people, who need the NG-CDF. Therefore, let us move fast and have that caucus, which, as one of our Membership suggested, should be formed as soon as next week so that we come up with amendments on the issues that we are debating currently and conclude this business. I can assure this House that once we take that route, things will be easier because our children are suffering out there.

I am achieving nothing here or out there because the children are out there and are not progressing. Having said that, let us move on to approve the amendments and engage the Executive and the National Treasury to approve the funds because the funds are available. I do not see why the National Treasury is withholding the money.

With those few remarks, I support.

The Temporary Speaker (Hon. Peter Kaluma): We bypassed the Member for Igembe North. Is he in the House?

Hon. Julius M'anaiba (Igembe North, UDA): Thank you, Hon. Temporary Speaker for giving me an opportunity to contribute to this monumental proposal that will be historic, if the NG-CDF law is rightfully anchored in the Constitution. The NG-CDF contributions are immeasurable. I come from a rural constituency where most people live below the poverty line. Students and parents are highly disappointed at the ravaging effects of the drought and the dark cloud that has been hanging over the NG-CDF. Today, life is gloomy in the rural areas, particularly the marginalised constituencies. People have no hope of pursuing their education. Whenever we go there, people look at us as leaders who have not been able to deal with the hiccups that surround the NG-CDF. The enemies of the NG-CDF are told to keep off.

A few years before the coming into being of the NG-CDF, police officers used to live in dilapidated or makeshift houses, and our schools looked like shanties, but today the NG-CDF has really transformed the rural areas and people have benefited directly or indirectly. The NG-CDF has enabled the Ministry of Education to perform well, particularly on 100 per cent transition. The NG-CDF has ensured that students who could not raise school fees got education as an equaliser. Such people have been given a new lease of life through education. We cannot forget the people who built classrooms, houses for police and office blocks. They also benefitted. The rural areas have transformed because of the NG-CDF kitty. It is high time this honourable House ensured that the NG-CDF is anchored in the Constitution so that future generations can continue to benefit from it. The NG-CDF has made rural areas to be at par with urban areas. Security issues have also been addressed one way or the other through this kitty.

Whenever there are transport hiccups, people are mobilised and transported using NG-CDF vehicles to avert the would-be chaos in areas prone to banditry attacks.

I support anchoring this decentralised fund in the Constitution. Its major role is to accelerate performance in the education sector and to bring improvement in the security sector. These two functions are not devolved. I wonder why some people mix up issues to do with these devolved funds. Funds should be provided in the constituencies as we await the process of ironing out the small hiccups that surround the NG-CDF.

The Temporary Speaker (Hon. Peter Kaluma): Member for Funyula.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Speaker, let me take this opportunity to congratulate you on being nominated to sit in the Speaker's Panel. With your immense experience, I believe you will moderate debate in a sober and focussed manner.

Articles 95 and 96 of the Constitution of Kenya bestows on this House the power to make amendments to the Constitution. In that respect, I congratulate my colleagues for co-sponsoring this amendment to the Constitution. The NG-CDF and the NG-AAF have had far-reaching contributions on the ground. Wherever you go, the easily noticeable projects are NG-CDF projects. The Fund is at the heart of the lives of many ordinary Kenyans, be they poor or rich. Before the NG-CDF came into being, the so-called "rich people" were perpetually harassed to contribute towards various community projects in their rural areas in terms of building schools and paying school fees. We must laud the movers of the Motion wherever they are. May the Almighty God shower them with all the blessings, and may their households expand abundantly.

There has been misconception that the NG-CDF is petty cash or pocket money for Members of Parliament. The correct position is that that is not the case. It is a public fund with clear expenditure programmes and items. It has never been a fund for individual Members of Parliament. That notion should get off the minds of those envious people, the busy-bodies and civil society organisations. Indeed, the NG-CDF is a game changer across the country. Let me disabuse the notion that there is a court ruling abolishing the NG-CDF. What was ruled to be unconstitutional – Indeed the previous CDF law was unconstitutional, as read together with the Fourth Schedule of the Constitution – was the Constituencies Development Fund (CDF) Act of 2013 that purported to give mandate to Members of Parliament to do many other things that were generally devolved. We have since been operating under the NG-CDF Act of 2015, which is in line with the Constitution and, therefore, there is nothing unconstitutional about it. The Supreme Court avoided making any reference or ruling in respect to this Act. So, any civil servant or public officer who misreads and generally misinterpret the Supreme Court ruling is in contempt of court, and is punishing the common *mwananchi* for no particular reason.

I want to remind my colleagues that it is obvious that the NG-CDF money for Financial Year 2022/2023 cannot be released until the NG-CDF Board committees are gazetted, and that is after we conduct public participation. That should be very clear.

As I conclude, on the issue of the Senate Oversight Fund, Articles 95 and 96 of the Constitution bestows on Parliament the mandate to oversee the National Government and the county governments. This particular amendment gives the impression that it is only the Senate which has been given the mandate to oversee. So, where do Members of the National Assembly get resources to oversee? That is probably an area that the sponsors of the Bill will need to look at.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Member for Baringo County, Hon. Jematiah Florence.

Hon. Jematiah Sergon (Baringo County, UDA): Thank you, Hon. Temporary Speaker. Once again, I want to congratulate you for your appointment to the Chairpersons' Panel. I rise to support the Motion.

The NG-CDF is one of the policy components developed by the Parliament of Kenya that has really impacted the lives of the people of Kenya. It goes without saying that all our electorates understand that every elected Member of Parliament has worked through this fund.

The courts have their mandate but it is prudent for the people of Kenya to support their Members of Parliament for the NG-CDF to be adopted and accepted more. As the Member for Baringo County, having travelled across the county, I have realised the work that the NG-CDF has done. Many roads and school buildings have been constructed through the NG-CDF. Many children have gone to school through bursaries, courtesy of the NG-CDF. Moving forward, it is unreasonable for the NG-CDF not to be considered.

I reiterate as a Member of Parliament that I support this Motion with the hope that Members elected in the constituencies will, with the help of the NG-CDF, realise more development in their respective constituencies for the good of our people. I also understand that, as County Women Representatives, we have the National Government Affirmative Action Fund (NGAAF) as one of the funds that complement the work of the NG-CDF.

I encourage Members that, as we move forward, we use the NG-CDF more prominently, acknowledging the fact that the society knows that the NG-CDF is part and parcel of their lives.

With those remarks, I support.

The Temporary Speaker (Hon. Peter Kaluma): Thank you. Next is the Member for Nyeri Town, Hon. Maina Mathenge.

Hon. Duncan Mathenge (Nyeri Town, UDA): Thank you, Hon. Temporary Speaker for granting me this opportunity. It is a momentous occasion for me to speak to the Motion before the House on amending the Constitution.

The NG-CDF is a way of life in this country today. I urge the House that if there is anybody who has doubt as regards the position of the NG-CDF in the hearts and minds of ordinary Kenyans, we can take this matter to a referendum and we will come out on top. I do not fear taking the matter to a referendum such that we have to restrict it ourselves through a parliamentary initiative. If we need to go the whole hog, I am sure that Kenyans will come out in large numbers to stand with the NG-CDF. It is my view that the NG-CDF should even expand its scope and cover the spaces that seem to have been left during the sharing of functions between the national government and country governments.

Hon. Temporary Speaker, with your permission, I will give examples of such spaces. Firstly, our young people are one of the greatest assets that this country has. However, jobs as our young people knew them, have migrated from blue collar to white collar to manual labour and into the digital space. One of the key enablers for digital work is good quality internet. I propose that, as we look at this legislation, we expand the scope of the NG-CDF to provide communal internet hotspots for young people, to be supported by their government, to enable them exploit the digital superhighway.

Secondly, this country has technical training institutes across all constituencies. However, students graduate from these institutes with theoretical knowledge without a single tool in terms of toolboxes that would directly connect them to the job market. I urge us to expand the scope of the NG-CDF so that it provides our graduates from Technical and Vocational Education and Training (TVET) institutes with toolboxes and connect them to the job market.

Out-of-pocket expenditures while trying to access health services in this country has driven very many families to below the poverty line. The NG-CDF should come out openly in support of the less fortunate members of our society through a social protection programme where National Hospital Insurance Fund (NHIF) medical policies can be procured for needy families so as to shield them from the catastrophic out-of-pocket expenditures they incur while trying to access healthcare services.

The hunger situation in our country today is one area in which we would be having a different story if the NG-CDF was functional. We should be able to extend support to families that are sleeping hungry. I am sure that if the Members sitting in this House today have not received calls from their constituencies, they will do so before the end of the day. These will be calls from families that need support to feed themselves a single meal this evening after having slept hungry for many days.

Hon. Temporary Speaker, this being my maiden speech, I believe I should be allowed a little more time.

In terms of sports, the CDF can provide a paradigm shift in our approach to sports—to approach sports as an industry as opposed to the current situation where sports is compared with social services and culture. Sports is a key enabler for the employment of our young people in this country. If the NG-CDF were to be allowed more latitude, it would enable talented young people to exploit their talents to earn a living.

Hon. Temporary Speaker, another issue is inequalities in our country. We have a policy that provides free and compulsory basic education. Many children from less fortunate families are missing out on school because they cannot afford school fees and they...

The Temporary Speaker (Hon. Peter Kaluma): Add him one minute. He has made a request.

Hon. Duncan Mathenge (Nyeri Town, UDA): Thank you, Hon. Temporary Speaker. As we consider this Motion, I urge this House to consider expanding the scope of the NG-CDF in the subsequent legislation.

Lastly, it is disheartening that youths in urban areas have become captives of drug and substance abuse. I propose that the NG-CDF should be given latitude to make interventions.

Hon. Temporary Speaker, finally, I would like to thank the people of Nyeri Town for giving me this opportunity to serve them diligently.

With those remarks, I beg to support.

The Temporary Speaker (Hon. Peter Kaluma): Thank you. Hon. Mishi Mboko, Member for Likoni.

Mhe. Mishi Mboko (Likoni, ODM): Asante sana, Mhe. Spika wa Muda. Kongole kwa kupata fursa ya kutuongoza katika Bunge hili la 13.

Kwanza, nawapongeza Wabunge wenzetu wawili kwa kuileta Hoja hii ya marekebisho ya Katiba ili tuweke sheria ya NG-CDF, NGAAF na hata fedha za Seneti kwenye Katiba. Ni muhimu sana kuweka hazina hizi katika Katiba. Hii ni kwa sababu Katiba ndio sheria kubwa kushinda sheria zingine zote katika taifa letu la Kenya. Kumekuwa na kesi nyingi sana ambazo kila wakati zinapinga kuweko kwa hazina hizi. Kwangu mimi ndizo zimezingatia ugatuzi ambao umefika mpaka kule mashinani hadi kiwango cha wadi na hata vijijini.

Ukiangalia miradi inayotekelezwa kupitia hazina inamilikiwa na wakaazi wa maeneo bunge yale ama kaunti zetu 47 utaona kwamba kabla ya miradi kubuniwa ama kutekelezwa, Wakenya hupewa nafasi ya kutoa mapendekezo ya miradi wanayoihitaji. Ukiwauliza Wakenya kuhusu faida za ugatuzi ambazo zinawafikia kupitia serikali za kaunti na hazina za NG-CDF na NGAAF, watakuambia kwamba faida asilimia mia kwa mia zinatokana na hizi fedha.

Kwa wanafunzi wengi ambao walitaka kuendelea na masomo katika shule za upili, ukosefu wa karo ulikuwa kikwazo na changamoto kubwa kwao kabla ya kubuniwa kwa hazina hizi. Takriban zaidi ya miaka 20 iliyopita, wakati ambapo hatukuwa na hazina hizi, Wakenya katika sehemu nyingi humu nchini hawakuweza kuona barabara za lami katika maeneo walikokuwa wakiishi; hakukuwa na madarasa ya kisasa, na hakukuwa na ufadhili wa karo ya shule. Sasa juulize, je, fedha hizi zilikuwa zinaenda wapi ama kutumika vipi?

Hizi ni fedha ambazo mwananchi wa chini amemiliki, kwa hisani ya hazina hizi, na anatoa mapendekezo yeye mwenyewe kuhusu miradi ambayo angependa itekelezwe kwa manufaa yake. Pesa za NGAAF zinaangalia makundi ya Wakenya waliotengwa kama vile

walemavu, akina mama na vijana ambao wametengwa sana kutoka nyanja za kiuchumi katika taifa letu. Pia, walemavu na akina mama wameweza kuboresha hali zao za kiuchumi kupitia njia tofauti za kibiashara, upande wa sanaa na kukuza vipaji vyao.

Kwa hivyo, hazina hizi ni lazima ziwekwe kwenya Katiba ndio tusihangaishwe kila saa na kesi zisizo na maana na kupoteza muda wa kuwahudumia Wakenya. Hivi sasa, watoto wetu wanahitaji karo za shule. Wengi wao wako nyumbani. Sisi kama Wabunge tumekuwa na kazi kubwa sana. Imekuwa kizungumkuti. Kila wakati tunaambiwa kuwa tutapata fedha hizi, mara tunaambiwa si haki kulingana na sheria. Haziko katika sheria. Kwa hivyo, tunataka kufanya marekebisho na kuweka sheria hii katika Katiba. Katiba ni sheria mama na hatutakuwa tena na kizungumkuti ama sintofahamu kuhusiana na fedha hizi.

Hata kule kwangu Likoni nimejenga shule ya upili ya waschana mahali ambapo hapukuwa na shule ya upili, haswa ya bweni. Watoto wa kike, ambao kwa muda mrefu wametengwa katika mambo ya kielimu ama kimasomo, wameweza kufika shuleni.

Tumeweza kuboresha mambo ya usalama na mambo ya mazingira. Tumeweza kuboresha pia mambo ya sanaa na ya michezo. Hata majanga yanapokuja, pesa za NGAAF na NG-CDF zimesimamia na kuhakikisha Wakenya wametolewa katika changamoto kama hizo. Kwa hivyo, yeyote anayepinga fedha hizo ni adui mkubwa wa maendeleo katika taifa letu la Kenya. Tutasimama kidete tuhakikishe kuwa Wakenya wameendelea kufaidika na fedha hizi. Pesa zao zitumike kwa miradi yao ili waweze kujiita Wakenya na wajivunie kuwa Wakenya.

Asante sana, Mhe. Spika wa Muda.

Spika wa muda (Hon. Peter Kaluma): Asante sana. Mjumbe wa Eneo Bunge la Bondo, jaribu pia kuongea kwa Kiswahili.

Hon. Gideon Ochanda (Bondo, ODM): Thank you, Hon. Temporary Speaker. Kiswahili was for the morning session. I think those who are speaking it now could be out of order.

Hon. Temporary Speaker, there are a number of things I want to touch on. The first one is that we cannot gainsay the place, role and benefits of the NG-CDF as at now. The NG-CDF is older than the Constitution that we are talking about. I believe that there was a problem or a very big oversight in terms of not including the NG-CDF in the Constitution of Kenya, 2010. Unfortunately, this must have been looked at in a very different way because the Constitution gives Parliament space to create public funds, in the same way that they are talking about. The NG-CDF could be one of those funds.

In a similar manner, Article 176 (2) of the Constitution gives the county governments a privilege that ought to have been given to both the national Government and county governments, either as a principle or as a provision where resources need to touch every part of this country as reasonably and effectively as possible. That is not happening with county governments. The NG-CDF would have sealed that kind of loophole in a bigger way. Therefore, we cannot gainsay its benefits at the moment.

The biggest problem is the safety of the Fund. How safe is it? The benefits are enormous and are acknowledged by everybody. However, haters of Members of Parliament and Parliament come up from time to time thinking that the Fund is Member's Fund. Because of inherent hate, they constantly come up with things against the Fund. For the Fund – and not Members of Parliament – to be protected, there is the proposal to anchor it in the Constitution. I support that in totality.

Next is the whole issue of strategy. This Fund has gone through a lot of smoothening. The legislative part of it has gone through a lot of cleaning. It has regulations in tow. There were many weaknesses before but those weaknesses have, over time, been addressed. It is not like any other fund. So, for purposes of strategy, we do not need to put the NG-CDF together with other funds at one go. The other funds are fantastic and they should exist. However,

entrenching them in the Constitution at one-go might be a problem. We may want to entrench all of them at once and end up losing all of them. The best thing is to go one by one.

The fund that I am not so pleased about is the Senate Oversight Fund. Immediately we even start thinking about it, we find that there is a big problem. First, it is illegal. The Senate has money under Parliamentary Budget for oversight. It is provided every year. Whatever the Senate does is what we exactly do. Talking of NG-CDF, it is not a function of parliament. It is function that is reposted elsewhere outside Parliament. In the same manner that the National Assembly is facilitated to conduct oversight, the Senate is provided with funds for purposes of oversight. If we make the mistake of creating another Fund for purposes of oversight by the Senate, it would be unconstitutional. I want to remind Members that we gave the Senate money in the name of trying to come up with an oversight stuff in 2018, 2019 and in 2020. However, that programme was not implemented because the money went to the Department of Planning, and the Department did not know what to do with the money because there was no regulation. There was no direction in terms of what they were supposed to do with that money. So, what I am trying to say here is that apart from the illegality, there are some of those things that are not going to be right.

Lastly, the Constitution has the Equalization Fund enshrined to it. The Equalization Fund has not been implemented in a proper sense for the last 10 years yet it is constitutional. This is because it lacks certain details that the NG-CDF, for example, has. If we enshrine the NG-CDF, it will be ahead of the Equalisation Fund.

Thank you.

The Temporary Speaker (Hon. Peter Kaluma): Member of Bomet East, Hon. Richard Yegon.

Hon. Richard Yegon (Bomet East, UDA): Thank you, Hon. Temporary Speaker, for giving me this opportunity. Before I continue, I would like to say that I support the Motion for amendment of the Constitution in order to entrench the NG-CDF Act in it.

Hon. Temporary Speaker, let it be known that the NG-CDF is supported far and wide. In my Constituency, people from all corners stream in my place asking me when I am going to give them NG-CDF. School children who have been sent home for non-payment of fees have gone to queue at my NG-CDF office hoping to receive some help. This is something that this House must support fully. I must say that we would be digging our own graves, if this thing is not enacted or entrenched in the Constitution. Hon. Members of the National Assembly, you will not come back to this House in 2027 if you do not save the NG-CDF. Therefore, we need to work round the clock, as Members, to make sure that the NG-CDF is safeguarded.

We also need to entrench in the Constitution the Senate Oversight Fund, and the NGAAF for the County Women Representatives to make sure that in future, there will be no problems of people going to court to challenge their legality.

The infrastructure we have in our constituencies, especially school buildings, chiefs' offices and housing for security personnel, is all courtesy of the NG-CDF. This single fund has been felt far and wide across the country. As we know, before the initial CDF was established, there was nothing tangible that was happening in the countryside in terms of development. Parliament, in its wisdom, went a long way to make sure that everybody in the country was catered for through the initial CDF Act and, subsequently, through the NG-CDF.

What I wanted to say about the NG-CDF is that we should not even be talking about entrenching it in the Constitution but rather about increasing its allocation from the 2.5 per cent of national revenue to 10 per cent, so that we can undertake even bigger projects in our areas of representation. The current allocation of 2.5 per cent of national revenue is very little. Therefore, we need to be guided to have this allocation increase. The people who are feeling that the NG-CDF is managed by Members of Parliament are misinformed. We are just but the conveyer belt or oversight Members. We are not even signatories when it comes to

appropriation of funds. It is only that we want to see this fund being put in the right place and doing the right things.

With those remarks, I support.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Irene Mayaka, Nominated Member.

(An Hon. Member consulted loudly)

You are certainly not Hon. Irene.

Hon. Irene Mayaka (Nominated, ODM): Thank you, Hon. Temporary Speaker. Let me, first of all, take this opportunity to congratulate you on your election to the Chairperson's Panel.

I stand here to also support the idea of anchoring the NG-CDF to the Constitution. I support this particular idea because of public schools have been the biggest beneficiaries of the NG-CDF in terms of improvement of infrastructure and construction of new classrooms. I come from a region that is very entrepreneurial in nature. It is noted that in some of our markets, like Keroka, Miruka and Sirona, people have been trading way past 11 p.m. This is because, through the NG-CDF, they have been able to have highly raised security lighting masts erected at various market centres. This has been very beneficial to our people.

I note that my area Member of Parliament, the Member for West Mugirango, is in the House. I know that once this Fund comes back into proper use, he will be able to assist us in maintaining the Kenya Rural Roads Authority (KeRRA) roads. For example, the Juakali-Gianchore Road that has helped tea farmers to be able to transport their tea to the different market centres. He will also help in ensuring that the construction of Nyaigesa Technical Training Institute (TTI) is completed and fully equipped.

I will not underscore the benefit that the NGAA has given to our County Women Representatives. For those of us who are angling to join elective positions, without scaring our already elected Members, this is also a Fund that we really support. The gods of the Nominated Members have actually pointed me in the direction of Article 204 (d), which speaks of Economic Stimulus and Empowerment Funds. I look forward to when this particular discussion will take place in this House, in terms of Parliament being enabled to enact a legislation that will have Nominated Members being in charge of this kitty.

The Member for Embakasi West also talked about the Senate Oversight Fund. Mine is to actually urge the caucus that will be formed to enrich this particular Act – to look at it as a parliamentary oversight fund. It should not necessarily be specific to the Senate. It should be for all parliamentarians so that they may be able to have a Fund that is very specific to their duties in terms of oversight.

Finally, I must say that the NG-CDF, the NGAAF and the proposed Senate Oversight Fund are very vital in the nature of our work. This is because they give Hon. Members a level of independence that enables them to do their work and pursue development activities back in their different constituencies. As a result, they will not have to always be over-reliant on the National Government or bend over to do things in favour of the National Government because they do not have any other independence to be able to develop different things back at home.

With those few remarks, I beg to support.

The Temporary Speaker (Hon. Peter Kaluma): Member for Lungalunga, Hon. Mwangale Chiforomodo. I hope I pronounced your name correctly.

Hon. Mangale Chiforomodo (Lungalunga, UDM): Thank you, Hon. Temporary Speaker. You are very right. Chiforomodo is my name. First of all, congratulations for you being part of the Chairperson's Panel. The NG-CDF has become very popular in Kenya because history is judging previous times. We used to receive funds through the districts – the

then quota system – but it never worked well. Now that things are working, people have now started to say that the NG-CDF belongs to Members or whatever. If it were not for the NG-CDF people in some areas of this country would be doomed. I want to give an example of my Constituency, Lungalunga, where 75 per cent of the population live below the poverty line. Who will educate the children of those poor people? Who will recognise and develop the talents of those poor youths? The proposed 1 per cent allocation for sports is, definitely, too little. My proposal is that we increase this allocation. This Fund is very important. That is why I support and congratulate my colleagues, Hon. Mule and Hon. Gichimu, who have been touched by the many souls of the poor Kenyans who are crying that their kids are at home due to lack of school fees.

This morning, I received a call from Kiranze Village, conveying the message that a girl had been sent home. She was put on loud speaker for me to hear her, and she was crying. The situation is devastating, discouraging and disheartening. I support the idea of anchoring the NG-CDF in the Constitution so that its existential right may not be challenged. Once we do so, all those who will come to Parliament after us will not have any court battles with regard to this Fund.

We also need to expand and increase the scope of the NG-CDF. People are dying today, because of hunger and thirst. This is because the bodies which have been given the mandate of providing water have failed. If we, however, expand the scope of the NG-CDF and have water provision included as part of its activities, we will be able to touch the hearts of the people of Kenya. When the time for making the ultimate decision of enshrining the NG-CDD in the Constitution comes, I will support.

If we take this initiative or discussion to the people of Kenya, it will be overwhelmingly supported because people are currently suffering, and they know the importance of this Fund. The only institution available in Lungalunga is the Technical Training Institute (TTI), which still needs a lot of intervention for it to be counted a good institution. The only hope we have in Lungalunga is the NG-CDF.

With those remarks, I support the idea of enshrining the NG-CDF in the Constitution.

The Temporary Speaker (Hon. Peter Kaluma): Member for Marsabit County.

Hon. Naomi Waqo (Marsabit, UDA): Thank you, Hon. Temporary Speaker. I take this opportunity to congratulate you for being nominated to the Chairperson's Panel. I also want to congratulate Hon. Githinji and Hon. Mule for coming up with this very important Motion that is relevant to every Kenyan.

Hon. Temporary Speaker, this is a legislative proposal to amend the Constitution in order to entrench the NGAAF, the Senate Oversight Fund, and the Economic Stimulus and Empowerment Fund in the Constitution. All these Funds will make a lot of difference in the lives of Kenyans, especially the NGAAF – a fund through which the Government of Kenya has touched the lives of Kenyans in terms of improving their lives through funding of their education.

As we all know, the Government has just set aside 2.5 per cent of ordinary national revenue for the NG-CDF. That is what has made all this difference. If there is anything that has brought about equity to every part of this country, it is these funds. Small businesses benefit from these funds, especially *mama mboga* and the people who are at the grassroots. Through activities that have benefitted from these funds, Kenyan families are enjoying improved lifestyles.

The funds also benefit school-going children through bursary awards for school fees. Many of us benefitted from this in the past, but it was not in a very well-structured manner. Through these funds, many disadvantaged children benefit and further their education. Many beneficiaries have since graduated from universities. Their parents have also relaxed or have been relieved of the burden of paying school fees. Most parents in this country have not been

unable to support their children's education. However, with the help of bursaries from the NG-CDF, they have managed to see their children through school and they are now enjoying the fruits of their hard work.

We also know that public school infrastructure, and other facilities, across the country have been improved through these funds. We all know that children going to public schools have in the past studied under trees in some parts of this country, with no furniture to sit on. However, through these funds, classrooms have since been built and furnished well in almost all parts of the country. Our children are now being taught in proper environment. This has also improved their performance. As a result of this, we have parents who have now taken their children to good schools. They have all performed well academically, which in turn is also a benefit to all of us.

These funds help during emergencies. There is a lot of drought and people are suffering right now. Many people are calling and asking us for help from the funds. I know that most Members of Parliament are now under a lot of pressure. If there is anything that we can do today for the benefit of Kenyans it is to approve this legislative proposal to make sure that these monies are released, so that the poor people on the ground can benefit from them.

Again, sports have been empowered so much through these funds. We know that our young people engage in sports in every part of this country. They have a lot of passion. In many areas, they promote peaceful coexistence between different communities. That is why I can stand here today and boldly say that I support this legislative proposal to amend the Constitution in order to anchor these funds in it.

When implementation time comes, I request Members to give it a lot of attention and support the very needy people, so that we can have a lot of impact and also the money can benefit those who really need it.

The Temporary Speaker (Hon. Peter Kaluma): Thank you very much. Hon. Beatrice Kemei, Member for Kericho.

Hon. Beatrice Kemei (Kericho County, UDA): Thank you, Hon. Temporary Speaker. First, I want to congratulate you on being...

Hon. Eve Obara (Kabondo Kasipul, ODM): On a point of Order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Hon. (Dr.) Eve Obara, what is the matter?

Hon. Eve Obara (Kabondo Kasipul, ODM): Thank you very much, Hon. Temporary Speaker. Mine is just to seek clarification on the timing of the conference. This is a conference. I know that the debate is limited to three hours. I am looking at the time and I am wondering if we will be going on until much later, so that we can stay on.

Thank you.

The Temporary Speaker (Hon. Peter Kaluma): The interest of Members on the Motion being debated has been noted. We have few seconds to the end of today's session.

Proceed, Hon. Member.

Hon. Beatrice Kemei (Kericho CWR, UDA): Thank you, Hon. Temporary Speaker. I rise to support the Motion on the proposed amendment to entrench the NG-CDF and the NGAAF in the Constitution to guarantee continued support from these funds to our people, especially to those at the bottom of our economic structure. When it comes to the NGAAF, the first women representatives ---

The Temporary Speaker (Hon. Peter Kaluma): Hon. Member, you will have four minutes to debate the Motion when Parliament sits next time.

ADJOURNMENT

The Temporary Speaker (Hon. Peter Kaluma): Hon. Members, the time being 7.00 p.m, the House stands adjourned until Thursday, 3rd November 2022, at 2.30 p.m.

The house rose at 7.00 p.m.

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