

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 26th February, 2014

The House met at 9.00 a.m.

*[The Temporary Deputy Speaker
(Hon. Cheboi) in the Chair]*

PRAYERS

The Temporary Deputy Speaker (Hon. Cheboi): Order, hon. Members! Hon. Members who are stepping in, please, do so quickly. I think today we are doing very well on a Wednesday morning, particularly the hon. Members to the right of the Speaker. It looks like we have quorum, which is unlike a Wednesday morning. I must congratulate Members for working very hard to be here on time. Therefore, we will proceed.

NOTICES OF MOTIONS

The Temporary Deputy Speaker (Hon. Cheboi): Order, hon. Members! I see there are quite a number of notices of Motions. I can see a few Members who are interested in giving those notices present. Hon. Chris Wamalwa Wakhungu, do you have a notice you want to give? I also hope hon. Ochieng, hon. Njuguna, hon. Otichilo, hon. Gakuya and hon. Shimbwa are in the Chamber. Hon. Ochieng, are you ready? Hon. Wakhungu, I can see you are still--- We can have hon. Ochieng and then, thereafter, hon. Wakhungu.

DEVELOPMENT OF POLICY ON COMMERCIAL MOTORCYCLES

Hon. Ochieng: Thank you very much, hon. Temporary Deputy Speaker. I beg to give notice of the following Motion:-

THAT, aware that there is increased use of commercial motorcycles as a means of transport all over the country which, in turn has led to a concomitant increase in the number of commercial cyclists commonly known as *boda bodas*; acknowledging and appreciating the role played by the *boda bodas* in enhancing access to transport, communication and commercial activities especially in rural Kenya, which is characterised by poor road networks; deeply concerned that most of the *boda boda* operators are not properly trained and licensed to operate the motorcycles thus leading to frequent motorcycle accidents and loss of lives; noting the prohibitively high cost of acquiring training and motorcycle driving licences; deeply disturbed that most *boda boda* operators face incessant

harassment and extortion from law enforcement officers despite the fact that the *boda boda* operators work under very difficult conditions; taking into account the invaluable contribution of the *boda boda* operators to the Kenyan economy; this House urges the Government to immediately develop a targeted policy on operations of commercial motorcycles as in *boda bodas*, subsidises the cost of acquisition of training and commercial motorcycle driving licences, establishes motorcycle driving licensing units in every county and develops public awareness campaigns to ensure safety in commercial motorcycle transport in Kenya.

Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Cheboi): Very well. We can now have hon. Wakhungu.

RENAMING/UPGRADING OF KITALE TECHNICAL INSTITUTE

Hon. Wakhungu: Thank you, hon. Temporary Deputy Speaker. I beg to give notice of the following Motion:-

THAT, aware that the Senate passed a Motion that every county should have a public university; further aware that this country traditionally recognizes its heroes and heroines for their contribution towards development in various capacities; cognizance of the role played by His Excellency the late hon. Michael Wamalwa Kijana who hailed from Kitale in Trans Nzoia County; this House resolves that the Government renames and upgrades Kitale Technical Institute to Wamalwa Kijana University of Science and Technology.

Thank you, hon. Temporary Deputy Speaker.

SHARING OF WATER SALE PROCEEDS IN COUNTIES

Hon. Gitau: Thank you, hon. Temporary Deputy Speaker. I beg to give notice of the following Motions:-

THAT, aware that water is a crucial natural resource without which life would be impossible; and noting that just like other counties have mineral and non-mineral resources such as oil, gold and wildlife among others from which they draw part of their revenue; others such as Kwale, Taita-Taveta, Murang'a and Nyandarua counties have huge water resources, where for instance, Murang'a and Nyandarua provide 90 per cent of Nairobi County's water supply; deeply concerned that despite providing that crucial resource to the national Government for which sales in Nairobi alone topped upwards of Kshs200 million in 2012 and the producing counties do not get a cent from those proceeds; this House resolves that counties producing huge water resources benefits from, at least, 20 per cent of proceeds from the same and the local residents within a 40-kilometre radius of the resource of the water be supplied with piped water.

ESTABLISHMENT OF FUND TO NURTURE ENTREPRENEURSHIP SKILLS

THAT, aware that various funds have been set up in this country to assist women and youth like the *Kazi Kwa Vijana* Programme, Youth Enterprise Development Fund, Women Enterprise Development Fund; also aware of the new *Uwezo* Fund targeting youth below 35 years and women of all ages; concerned that there is an apparent neglect of men aged 35 years and above; given that entrepreneurship is crucial in the 35 to 50 age bracket; cognizance of the fact Kenya is targeted to be an entrepreneurial nation by the year 2030; this House urges the Government to create a fund encompassing people of all ages and gender for the development of entrepreneurial skills and abilities to wholly address issues of creativity and innovation which are necessary pillars for stimulating economic growth and development.

INTRODUCTION OF CLEANING DAY

Dr. Otichilo: Thank you, hon. Temporary Deputy Speaker. I beg to give notice of the following two Motions:-

THAT, aware that Article 42 of our Constitution accords every person the right to a clean and healthy environment; and that Article 69(1)(D) mandates the State to encourage public participation in the management, protection and conservation of the environment; deeply concerned that our homes, roads, public and private premises, work places, recreation areas and general environments are littered with plastics, solid and liquid wastes and lack of good general environmental aesthetics; this House resolves that the Government declares one Saturday of each month to be dedicated to every Kenyan household, organized groups, public and private institutions and corporate organizations to clean and beautify their immediate environment and public places; and also initiates a pro-active programme in all our schools to inculcate the culture of keeping our environment clean and healthy.

DEVELOPMENT OF RENEWABLE ENERGY

THAT, aware that the Kenya Nuclear Electricity Board was created and tasked with spearheading the development of nuclear energy in the country; deeply concerned that the construction and maintenance of nuclear plant is a highly technical, expensive and risky undertaking that potentially exposes a country to the threat of nuclear reaction and the challenge of disposal of radio-active nuclear waste; further aware that due to the inherent risks in nuclear energy production, many of the developed countries like Germany, India, Japan and South Africa, among others, have increasingly embarked on the systematic shut down of their nuclear plants and, instead, are promoting the development of clean renewable

energy like wind and solar; this House resolves that the Government stops any further investment in the development of nuclear energy and, instead, invests in the development of renewable or green energy which is safe and abundant in this country.

Thank you.

ACQUISITION OF LAND FOR EXPANSION OF JOGOO/LANDHIES ROAD

Hon. Gakuya: Hon. Temporary Deputy Speaker, I beg to give notice of the following Motion:-

THAT, aware that there are incessant traffic jams on Jogoo and Landhies Roads due to congestion, deeply concerned that the jams are an inconvenience to road users and a source of atmospheric pollution from idle motor vehicle carbon emissions; further aware that there are 50 acres of land on which the former Muthurwa Railway Estate stands and that, that land is adequate for purposes of modernizing and expansion of the existing roads and infrastructure to ease the congestion and traffic jams; this House urges the Government to urgently acquire the land from the Railway Pensioners' Scheme for the expansion and modernization of Jogoo and Landhies Road.

The Temporary Deputy Speaker (Hon. Cheboi): Yes, hon. Mwinyi. He is not here. We will move to the next Order.

MOTION

APPOINTMENT OF (DR.) A.I. ALI AND MRS. L. MUMELO TO PSC

THAT, pursuant to the provisions of Article 127(1)(d) of the Constitution, this House approves the appointment of hon. (Dr.) Abdullahi Ibrahim Ali and Mrs. Lonah Mumelo to be members of the Parliamentary Service Commission (PSC).

(Hon. (Ms) Nyasuna on 25.2.2014)

(Resumption of Debate interrupted on 25.2.2014)

The Temporary Deputy Speaker (Hon. Cheboi): Order, hon. Members! The Motion that is before us is that of the Chairperson of Parliamentary Service Commission (PSC), and it had been transacted yesterday. What remained was for the Question to be put and I can confirm that we have the numbers. Therefore, I will put the Question.

(Question put and agreed to)

BILLS

Second Reading

THE MARRIAGE BILL

*(Hon. Chepkong'a on 18.2.2014)**(Resumption of Debate interrupted on 25.2.2014)*

The Temporary Deputy Speaker (Hon. Cheboi): Again, hon. Members, what remained of that particular Bill was for the Question to be put and I, therefore, proceed to put the Question.

*(Question put and agreed to)**(The Bill was read a Second Time and committed to a Committee of the whole House tomorrow)**First Readings*

THE VICTIM PROTECTION BILL

THE NATIONAL DROUGHT MANAGEMENT AUTHORITY BILL

*(Orders for First Readings read – Read the First Time, and ordered to be referred to the relevant Departmental Committees)**Second Reading*

THE CONSTITUTION OF KENYA (AMENDMENT) BILL

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Lelelit, I hope you are ready to move your Bill. I cannot see your card on the screen.

Hon. Lati: Hon. Temporary Deputy Speaker, I beg to move:-
HAT, the Constitution of Kenya (Amendment) (No.2) Bill, Bill No.26--- This is a Bill to amend the Constitution of Kenya to allow the disbursement of--- I hope I am doing it right because this is my first Bill.

The Temporary Deputy Speaker (Hon. Cheboi): You are doing very well, hon. Lelelit.

Hon. Lati: Hon. Temporary Deputy Speaker, this Bill seeks to amend Article 204 of the Constitution of Kenya to take away money that is allocated for equalization---

The Temporary Deputy Speaker (Hon. Cheboi): Now, hon. Lelelit, you are doing very well as I told you, but you need to move that the Bill be now read a Second Time. Then you can now proceed. Use the Order Paper, if you have a neighbour with an Order Paper there.

Hon. Lati: Hon. Temporary Deputy Speaker, I beg to move that the Constitution of Kenya (Amendment) (No.2) Bill, National Assembly Bill No.26 of 2013, be now read a Second Time.

The Temporary Deputy Speaker (Hon. Cheboi): Now you can proceed.

Hon. Lati: Thank you. Next time, I am sure I will do better. This Bill seeks to amend Article 204 of the Constitution of Kenya to allow for the disbursement of the Equalization Fund away from the purview of the national Government, so that the funds can be distributed at the constituency level.

The Equalization Fund is established under Article 204 of the Constitution of Kenya and under Chapter 12 of Public Finance. That Fund is among many other funds that are provided for by the Constitution. It is like the Consolidated Fund and the Account Revenue Fund. When the framers of our Constitution thought of an equalization fund, they had fixed half a percentage point on the audited national revenue every year to go to marginalized areas of our country. That is how the Equalization Fund was established. Half of the percentage point of our audited revenues is meant to go to marginalized areas and not counties across our country. The Constitution is very clear. It does not talk about counties. It talks about marginalized areas.

The Equalization Fund is a national Fund. We are not trying to take anything away from the governors. We are only trying to take the distribution to the constituencies. The framers of our Constitution had an idea to bring into par those areas across our country that have been left behind for many years. Those are areas that are marginalized. We want to have an equal country. It is a framework of 20 years and, hopefully, within those 20 years, the Equalization Fund will have brought the marginalized areas within our country to the levels that are enjoyed by the rest of the country.

It is very particular. If you look at what the framers were thinking about, they were thinking of improving the infrastructure in those areas. I have to stress that in areas like Samburu, there are no tarmacked roads. I am sure in many other marginalized areas, it is the same. So, I want to thank the framers of our Constitution for thinking so loudly and broadly of equalizing our country in terms of infrastructure development. The Equalization Fund is certainly new in our Constitution and in our country. But it is not a new item across the world. Australia, for the first time, established an Equalization Fund in 1933. That is many years ago and they are still doing it. That is because there are so many areas across Australia – the Aboriginal and other areas - that require to be at par with the rest of the country.

If you look at other countries which have equalization funds, countries like Canada have done it for so many years. Last year, Canada allocated US\$14 billion of their Equalization Fund to territories and provinces that were not at par with the rest of the country. If you put into perspective US\$14 billion, it is an equivalent of Uganda's Gross Domestic Product (GDP). That is a lot of money. If you look at it, if developed countries are still thinking about equalization, then there is good reason why the framers of our Constitution thought of Kenya as a country that requires equalization fund.

In my opinion, we even require more because half a percentage point is about Kshs3 billion. If you compare that with US\$14 billion what Canada sets aside - and it is a developed country - it tells you that we need to improve on that. However, the framers did a good job by initiating that process. The Equalization Fund is in every other country

as developed as you might think. Belgium, German, France and UK have equalization funds. Even the United States of America has an Equalization Fund within the areas of native American reserves. Our country has just done something very good to bring us that aspect of the Equalization Fund.

However, if you look at who does the ground work in terms of who needs the equalization and who does not, the Commission on Revenue Allocation (CRA) under the Constitution is given that mandate to identify areas that need the Equalization Fund. I have to stress here that what CRA is supposed to do is not cast in stone. They are only supposed to recommend. If you look at Article 204 and all those Articles that refer to the Equalization Fund and CRA, CRA is only supposed to recommend. It is the National Assembly that is supposed to pass a Bill that will identify the areas; the final Bill that will go into the Equalization Fund funding.

I have looked at what CRA has identified. It has identified 14 out of the 47 counties as areas that require the Equalization Fund. If you look at those areas, Turkana County leads in terms of the size of the Equalization Fund that was allocated. It has been given about Kshs271 million. Of the 14 counties, Lamu was given the least allocation of Kshs186 million. Then the list runs down from Mandera, Wajir, Marsabit, Samburu, West Pokot and all that. I want to commend CRA for doing a good job, but there is something seriously wrong with CRA in terms of their thinking. The Constitution is very clear and it talks about marginalized areas. It does not, in any way, talk about marginalized counties. As I have said before, the Constitution is very clear that the Equalization Fund is a national Fund. It has nothing to do with the counties.

So, the reason why I say that CRA is somehow “drunk” with counties is because when they were identifying those areas, they put the county as the area of focus. They could have put some marginalized areas even within a county that is not marginalized. That would have made a better aspect of the reference in our Constitution. The framers of our Constitution had that in mind. It is partly for that reason that I decided to bring up this Bill. This is because after the governors realized that the Commission on Revenue Allocation (CRA) is using the county as the focus of the Equalisation Fund, they went ahead and identified the Chair of Council of Governors as part of the Committee on the Equalization Fund.

In my opinion, that is actually un-constitutional because, if that is a national fund according to the Constitution, CRA had no business having the Chair of Council of Governors, hon. Isaac Ruto, sitting in its Committee on the Equalization Fund. Furthermore, Bomet is not one of the marginalized areas, in my opinion. The starting point was wrong - to put the counties as the focus and yet, we are protected by the Constitution. The Constitution does not refer to the counties.

The CRA did a good job by identifying who needs the money, but they made a mistake of using counties as the focus for the Equalization Fund. This is partly the reason why I decided to bring this Bill. That is because a national fund can be used better through the constituencies rather than counties. There is nothing wrong with our governors, but they have enough money in their pockets and whatever is national should remain that way. I hope that CRA is listening to the House today. If they want to place a national fund into a focus area, they better do it in a constituency and not in a county.

The primary objective of this Bill is to amend Article 204 of our Constitution, and take the distribution of the Equalisation Fund from the purview of the national Government to the constituencies. When you look at Part (b) of the Bill - and this is the emphasis - it states:-

“(b) by remitting the monies appropriated under Paragraph (a) to the respective constituencies of the areas identified under Article 216 (4) to be used by those constituencies for the purpose for which the appropriation was made in accordance with such fund as Parliament may establish.”

What we are doing here is to take away the Equalisation Fund money allocated to every county and put it in specific constituencies, so that it can be used in the model of Constituencies Development Fund (CDF). First of all, I want to be very clear. By doing this, it does not increase any expenditure on the side of the national Government. That is because the Equalization Fund has already been established. All we are doing is to re-distribute the money into constituencies of those areas. Areas like Kwale and Kilifi will get their money as part of CDF, instead of through the county.

I am a proponent of CDF. If we want to devolve money to the lowest level, it is one way through which we can take money to the lowest unit of political administration of the people. Even in developed counties today in Kenya, you will agree with me that there are constituencies within those counties which are marginalized. If you look at Tiaty Constituency in Baringo, for example, where hon. Kamama comes from, it is one of the most marginalized areas in this county. But just because there is a tarmac road to Kabarnet, someone will think that Tiaty is also developed. That is what CRA should have looked at. If we use their formula and give Samburu West and North money, it will be devolved to areas that are marginalized more than others.

The other reason for this Bill, which focuses on the constituencies, is the success story of the CDF model. If you go to any constituency today, it does not matter whether you liked or loved the former MP; the best classrooms and dispensaries were built through CDF. The few children who have gone to good schools is through CDF bursaries. Sometimes, we have to admit the truth. There is a famous saying in the United States of America (USA), that: “If something is not broken, do not fix it”. In my opinion, as a country, we should go that route. Because CDF is not broken, we should not fix it. Our focus of devolution should have been CDF. If it has worked so well, why would anyone even think of counties?

That is why we are now having all this trouble as shown by the audits. That is because we tried to fix something that was not broken. We should have borrowed that old saying from USA. That is what is informing this Bill. CDF has done very well. Let us use its model to distribute the Equalisation Fund. I have to stress that it does not add any expenditure to the Government. It can qualify to be more of a Bill than a mainstream money Bill, because we are only re-distributing the money and not creating additional expenditure.

I also have to stress that with the passing of this Bill, it does not require any referendum or the Senate. That is because it does not touch on the counties. It is a national Bill. So, once this House approves this Bill, we will have money for marginalized areas in our country. That money will be used at the constituency level.

Hopefully, after having a CDF model success story in many years, we will have marginalized counties being at par with the rest of the country.

Before I conclude, I have to admit that I did not prepare very well. That is because I was just informed last night that I am supposed to move this Bill, which I am passionate about. I wish the Clerk's office would have informed me earlier. I want to ask for bipartisan support on this Bill because I know there is a lot of sympathy for the areas of our country that have been left behind. This is coming from both CORD and Jubilee. We want to see all parts of our country, particularly in northern Kenya, being at par with the rest of the country.

I am asking for bipartisan support on this Bill. When you look at the manifestos of CORD and Jubilee, they all had something to say about marginalized areas of our country. Now, we have an opportunity, through this Bill, to help Members of Parliament who come from those areas, to be at par with the rest of the country. If we take that route, just like Australia or Canada, we have an opportunity to bring those areas to the levels enjoyed by the rest of the country. For instance, one day, if you want to visit Samburu and you find some good accommodation and infrastructure, maybe, you will appreciate what we did in this House.

I am requesting Members of this House to take this seriously. I know my friends from the pastoralists region; this is the one thing they would die for. These are the people of Garissa, Marsabit and other areas, because they know what it can do for them. I am hoping that in 20 years' time, within the framework of this Bill and according to our Constitution maybe, we will be in a better position to have some of our equalized areas having made it. Then we will be looking at other areas in our country, like the slums and other marginalized areas, even now or, maybe, next year. It will be a worthy cause. In developed parts such as Nairobi, there are also areas that are totally marginalized. This will help them get at par.

Across the country, there are counties that are developed, but there are areas that require to be brought at par with the rest of the country. I want to stop there and emphasize the fact that this is a national fund. We are taking it to the constituencies and it does not increase any expenditure to the Government. This is the one thing I know that is found in the manifestos of both sides of the House. So, I expect a lot of support because I know that we all have sympathies for the marginalized areas across our country.

I beg to move, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Cheboi): Yes, you have moved it already. That is fine. You will have to find a Seconder.

Hon. Lati: Before, I sit down, there is an able friend of my mine from--- I would have given someone who does not speak Maasai, but I was informed that I had to move this Bill today. I told the hon. Member to come and bothered him to wake up.

The Temporary Deputy Speaker (Hon. Cheboi): Who is seconding you, hon. Lelelit? You have not given his name.

Hon. Lati: I will ask hon. ole Lemein to second. I am sure all other members will contribute.

The Temporary Deputy Speaker (Hon. Cheboi): Very well. I cannot see your name? Can you slot your card at the intervention slot, please? Okay, hon. Ole Lemein.

Hon. ole Lemein: Thank you very much, hon. Temporary Deputy Speaker. I rise to second the Bill which, perhaps, is long overdue. I want to thank hon. Lati for coming up with this Bill. It is, indeed, true that majority of pastoralists in those areas are marginalized.

Hon. Temporary Deputy Speaker, the Constituencies Development Fund (CDF) has done a lot in those areas. It is through CDF that education, health facilities *etcetera* have been improved in those areas. The role of that Fund is to improve the basic infrastructure like water, roads, health facilities and electricity. I believe with the support of this House, if we can channel those monies through CDF, we will actually reach the very basic areas that need the funds.

As has been put by hon. Lati, CDF is a national fund and it has nothing to do with the county funds. I believe the west, which has the developed nations of the world, has equalization funds going directly to the affected areas. If we channel those monies through CDF, we will actually make use of those funds to improve the marginalized areas. That way, we will be at par with the rest of the countries in the world.

Hon. Temporary Deputy Speaker, Sir, this nation cannot develop unless we improve the marginalized areas. I, therefore, urge hon. Members to support this Bill because in doing so, we will be supporting the marginalized areas of this Republic of Kenya.

With those remarks, I second.

(Question proposed)

Hon. Shidiye: Thank you, hon. Temporary Deputy Speaker. Today is an exciting day for me. I am excited as I was when the CDF Bill was moved. It is a new dawn for northern Kenya, particularly the marginalized areas. If you look at what has happened in our country for the last 50 years, particularly in northern Kenya, you will really cry.

Hon. Temporary Deputy Speaker, 50 years down the line, we have no tarmacked roads, electricity and even quality education. You will realize that in our areas, majority of the people are living below the poverty line. Others are even asking whether we are independent. What has happened that we are still begging for food, which is a basic need? When one travels from Nairobi to Turkana, northern Kenya, Garissa, Wajir, Mandera, Marsabit, he or she will realize that any commodity that he or she buys from those sides becomes more and more expensive.

Therefore, such a fund will uplift the standards of the people in that area. We have seen what the CDF has done and what the county governments money is being used for, and we are really excited. It is really an exciting time for this country. If the devolved governments, CDF and this Bill could not be passed to become law, we would have remained backwards.

Hon. Temporary Deputy Speaker, why do we have cattle rustling in our area? It is simply because we are poor. If we reduce poverty, believe you me, there will be no cattle rustling. Cattle rustling is caused by grinding poverty; people living in abject poverty. In this country, we want to reduce the gap of inequality. Kenya is one of the countries that have the highest inequality in the world after Brazil.

Hon. Temporary Deputy Speaker, you will also realize that Kenya is the third recipient of relief food, after North Korea and Ethiopia. We are the third largest recipient of relief food.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Shidiye, you know you are a very tall hon. Member. Bend a little lower so that we hear you better.

Hon. Shidiye: Hon. Temporary Deputy Speaker, I was saying that Kenya is the third recipient of relief food, after Ethiopia and North Korea. We know that North Korea is a failed state and Ethiopia is almost a failed state, sorry to say that. But Kenya has never had war. Why are we the third recipient of relief food in the globe? That shows where we are. We are celebrating in Nairobi that Kenya is developed and has the best roads, like the one from Nairobi to Thika, which is a super-highway, but where are the rest? About 70 per cent of Kenyans are suffering and they are very poor.

Hon. Temporary Deputy Speaker, I would even go further and suggest that we should have a marshal plan. After the Second World War, other parts of Europe, German and France had marshal plans to uplift the living standards of their people. I was expecting that the marginal areas will get the support it deserves.

There is what was called the “high and mighty technique” during the colonial time. During the colonial time, we were denied education, particularly in pastoral areas. The Maasai, Samburus, Turkanas, Rendiles and the Somalis were denied education. If you look at the number of people from pastoral areas who are working in Government today, you will realize that they are far fewer because of not being educated. Opportunities do not come to them because they are not even aware of what is going on. If you are in Mandera, you cannot even listen to the radio or get newspapers. Those are signs of poverty. This Bill has come at the right time and must be supported by all and sundry in this House.

Hon. Temporary Deputy Speaker, there is urban poverty in this country. If you go to areas like Kibera and *Mukuru Kwa Njenga*, you will realize that those people are really suffering. Time has come for money to be set aside for those areas.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Members, I am really tempted to go by the order of requests. The reason is that I realized Members have really worked very hard to be here early today. Unfortunately, probably, it would be one side of the Chamber but, so be it. I will read the ten names of the Members who will contribute in this order: Hon. Murungi, hon. ole Ntutu, hon. Gichigi, hon. Mulu Makali, hon. Asman Kamama, hon. Huka, Mandera South, hon. Barre Shill and hon. Leonard Sang.

I am not going to entertain any other--- I mean there will be no issue of gender or parties. The reason is that I am going to go by the order of requests and I have already read the ten names.

Hon. Murungi.

Hon. Murungi: Thank you, hon. Temporary Deputy Speaker, for giving your “solomonic” advice.

The Temporary Deputy Speaker (Hon. Cheboi): Order, hon. Murungi. Hon. Kipchoim, are you on a point of order?

Hon. (Ms.) Kipchoim: Hon. Temporary Deputy Speaker, I request if you could reduce the minutes so that we can catch up. That is because this Bill is “hot” and we all want to contribute.

The Temporary Deputy Speaker (Hon. Cheboi): Well, this is a Bill that is number one and, secondly, we have time, hon. Kipchoim. You will have your time. Let us proceed with the normal ten minutes.

Hon. Murungi: Hon. Temporary Deputy Speaker, I rise to support this Bill as moved by hon. Lati. In most of those marginalized areas, we have vast resources. The perennial problem that we have in those areas is lack of water, roads, electricity and health facilities. It is worth noting that a county like Turkana is doing a lot of farming now, courtesy of the water that has been availed there by some NGOs. So, this Bill will have an effect of reaching the marginalized constituencies unlike the initial period when it was to reach the counties. Most of the constituencies in this country – more than half – are marginalized. I think this is a good move. I would like to correct the notion that it is not only the marginalized areas, there are some constituencies which are not necessarily pastoral, but are marginalized. Therefore, I think CRA, when it is reviewing and publishing these areas, will consider all the constituencies.

North Eastern Province has a lot of mineral resources, but it is now impossible to mine in those areas because the roads are impassable. There is no electricity there. I hope that once these things are improved, those areas will form the basis of our mining strongholds. Cattle rustling is becoming a menace because those areas have no roads. It is impossible to track cattle rustlers because of the bad roads. Once this Fund is availed to the constituencies, we will be in a position to improve our security.

Hon. Temporary Deputy Speaker, according to Article 216(4), CRA will do a lot of justice to the constituencies when they will be allocating money to the most needy constituencies and marginalized areas. In South Imenti Constituency, we have six wards. Out of those six wards, three wards are really dry. But when it comes to the appropriation of money, especially on poverty index, South Imenti is ranked as being among the best constituency. It is worth noting that three wards in my constituency; that is, Egoji East, Abogeta East and Mitunguu are still marginalized. I do not know what CRA will do so that such areas are considered.

Now that we have the Equalization Fund and CDF, when the money is subdivided, it is given in accordance with the poverty index. Now, with the Equalization Fund, I think the CDF Chairman will consider, maybe, allocating that money equally to the constituencies. That is because the marginalized areas will be getting more money from the Equalization Fund.

With those few remarks, I support the Bill.

Hon. ole Ntutu: Thank you, hon. Temporary Deputy Speaker for giving me this opportunity. First of all, I want to thank my brother, hon. Lati. Having grown up in the marginalized areas, we know where the shoe pinches. The framers of our Constitution had a very good idea on where that money should go.

Hon. Members, we know of the rich history and successes of what we have in our constituencies. The CDF money is the only money that is working on the ground. This Equalization Fund is meant to assist the constituencies that need help. This is, indeed, a credit. I want to ask my colleagues to support this Bill because it will bring the

marginalized areas to the level where everybody else in the country is. If you look at the national Government--- I can for sure say that, that money, if you were to ask some of us in the Budget and Appropriations Committee where that money is--- You do not see the money. What you are told is that the Ministry in charge of devolution has the money and it is still working on the structures. What this Bill is going to do is just to give structures so that the money can go directly to where it is required.

Marginalization in this country is not something new. Look at the constituencies in North Eastern and Eastern provinces. Look at Marsabit and Wajir, in particular. There has been fighting going on there pitting the clans. That conflict is majorly because of scarce resources. People were talking about the laptops that will be taken to those marginalized areas. I always ask myself--- I am waiting to see whether electricity will reach an area in my constituency called Ol Derkesi. If you ask the residents there where the road is, they will not show you. There is no road there, let alone water and electricity. Let us support this Bill because it will help those areas enjoy the fruits of Independence.

Article 204 of the Constitution states: “Any unexpended money in the Equalization Fund at the end of a particular financial year, shall remain in that Fund for use in accordance with Clauses (2) and (3) during any subsequent financial year.” Sometimes, when you read these laws, you wonder where we will get that money from. We even do not have enough money to do other things. When that money is not spent, it is sent back to the Ministry or Treasury and that will be the end of it. We are, therefore, asking this House to help us get that money, so that our areas can benefit from the Fund.

The Report by CRA has counties like Mandera, Wajir, Marsabit, Samburu, West Pokot, Tana River, Narok, Kwale, Garissa, Kilifi, Taita Taveta and Isiolo. The list keeps on changing.

Hon. Temporary Deputy Speaker, do you know what Mr. Cheserem says? He says that it keeps on changing. So, today it is my county and tomorrow it is your county. So, do not just look at the areas that are benefitting this year or next year. Issues change. So, I am asking Members of this honourable House to support this Bill so that, maybe, next year, we will change the law so that many of the constituencies can benefit. I am sure we should not go by the counties but by the constituencies and areas that are affected.

Hon. Temporary Deputy Speaker, I also want to tell Members of this honourable House that other western countries are also using the equalization fund and it has helped a lot. The only problem that we have in this country is that we never think through the whole process. That is why today you hear the money is with the Ministry in charge of devolution. We are almost approaching the end of the financial year in June and that money is nowhere to be seen.

So, hon. Temporary Deputy Speaker, I want to really ask hon. Members to support this Bill. The money will help the marginalised areas in this country.

With those very few remarks, I support. Thank you.

The Temporary Deputy Speaker (Hon. Cheboi): Very well. Hon. Gichigi of Kipipiri. I have given you two chances and there must be a problem with your microphone. Probably you need to change. Go to the next one and press the intervention button.

Hon. Gichigi: Thank you, hon. Temporary Deputy Speaker. I rise to support this particular Bill. It is a good idea and it has come at the right time. To me, the disbursement of that money is already late. When you look at the relevant provision of the Constitution - and that is Article 204(2) - it is a bit ambiguous on how the national Government is going to disburse monies in that particular Fund to the counties. It would be easier to identify the pockets of poverty in this country by devolving even further to the constituencies and, perhaps, even, at times, to the ward level.

Hon. Temporary Deputy Speaker, where I come from - the good place called Kipipiri - there are some places that have serious problems. I have people who are given relief food every other year. If we generalise and say that the money is going to the counties, some areas that are not in it are likely to benefit. If we are going to leave this Fund to be distributed by the county governments, then I think we are in trouble.

Hon. Temporary Deputy Speaker, during the last financial year we, by mistake, devolved money that belonged to the Kenya Rural Roads Authority (KERRA) and Rural Electrification Authority (REA). When the money went there, it was not allocated to the roads or to electricity. The Government had to go back into its coffers and dig deeper to try and get money to deal with the projects that had stalled. That is because the governors and their governments had failed to use the money that was allocated specifically for those issues. So, there is a risk that if that money was to go to the same entities, it might be used not to alleviate poverty, and not to the specific areas that need it.

Hon. Temporary Deputy Speaker, when we speak about marginalization, sometimes, people just think of North Eastern and coastal areas. The county I come from, which is Nyandarua, is among the three counties in the country, the other ones being Tharaka-Nithi and Tana River, that do not have county headquarters. Nyandarua has for a long time remained marginalized. The offices that were being used by the then local Government - Nyandarua County Council - were in Laikipia. As we speak now, our county is actually hiring some flats somewhere in the county headquarters called Ol Kalou.

(Loud consultations)

The Temporary Deputy Speaker (Hon. Cheboi): Order, hon. Elmi. The consultations are a bit distracting.

Hon. Gichigi: Thank you, hon. Temporary Deputy Speaker. Our County Assembly is using a church. When the Commission on Revenue Allocation (CRA) is dividing this money and identifying the areas to benefit, I will ask them to remember those three counties that do not have headquarters. In fact, I can say they are marginalised.

Hon. Temporary Deputy Speaker, we have seen money going to specific areas, and the same is misused. I ask the people who will be implementing the programmes that will benefit from the Equalisation Fund to use that money properly. A situation where, for example, in the Central Government and in counties, you are given money for a project but half of it or almost half of it goes towards operations rather than actual development, should not arise. Perhaps, it is high time that we also created a statute or a statutory law that will govern the utilization of that Fund, so that we can limit the

administration expenses as we have done with Constituencies Development Fund (CDF). This is where we say 3, 4 or 5 per cent as the maximum money that is going to be used for administration and the rest must go directly to the intended projects.

Hon. Temporary Deputy Speaker, it is also important that, that money should be properly utilised. There is a time limit in the Constitution, which is 20 years. After 20 years, the Equalisation Fund will cease to exist. It is, therefore, important to use the money to uplift the standards of the marginalised areas within that particular period.

Hon. Temporary Deputy Speaker, as I have said, that money is not benefitting anybody by staying with the Government. Let the same be disbursed as soon as this Bill is passed. Let us identify marginalized areas properly.

I support.

*[The Temporary Deputy Speaker
(Hon. Cheboi) left the Chair]*

*[The Temporary Deputy Speaker
(Hon. Kajwang) took the Chair]*

The Temporary Deputy Speaker (Hon. Kajwang): Very well. Hon. Makali Mulu from Kitui Central.

Hon. Mulu: Thank you, hon. Temporary Deputy Speaker. I want to start by thanking your Office or the Chair for making sure that those of us who struggle to come here early, get the opportunity to contribute.

Hon. Temporary Deputy Speaker, I want to support this Bill. I want to thank hon. Lati for moving it. That is because the framers of our Constitution 2010 were really very focused in terms of what they wanted to achieve with the Equalization Fund. When you look at Article 204 of the Constitution, it is stated that the Fund is targeted to the marginal areas so that they are assisted to attain the same level of development with the rest of the country. We all recognize the fact that this country has gone through what I would call historical inequalities or injustices that have made some regions to be more developed than others.

For example, when we attained Independence, the Government at that time decided to focus on what I will call “economic growth” and there was minimal interest in what I will call “regional balancing”. So, what happened as a result of that strategy was that some regions became very developed while others were not. This was continued by subsequent strategies. Things like settlement schemes where a majority of Kenyans were moved were created, especially in rich agricultural areas, so that production could be improved. As a result then, some areas became developed while others were not. That is why you see the focus is on basic needs. The Equalization Fund is supposed to be targeted at basic needs. These are things like water, roads, electrification and health facilities. There are some areas in this country where any time you visit a homestead, it is normally whispered to you that you should not mention water, because if you do, you will remind the child of water and that can cause problems to the family. This means that water is really basic to those families. The Equalization Fund was to make sure that those areas could get water through this targeted fund. That is why I think that as we continue,

there might be need to review this 0.5 per cent, which is allocated to the Equalization Fund; it is too low. This is because such areas are many in this country, and if we want to have any impact, we need to make sure that resources are properly targeted.

Hon. Temporary Deputy Speaker, the importance of the Equalization Fund from where I stand is that we also need to think seriously about which areas are benefiting. This is because if you look at what the Commission for Revenue Allocation (CRA) has done, they have identified only 14 counties which are supposed to benefit this financial year. I am very surprised that my county, Kitui, is not among the 14. If you ask any Kenyan, even the ones living in Turkana, they will tell you that Kitui is one of the marginalized counties in this country. So, I think the criteria used to identify these marginalized counties need to be reviewed.

I want to give you an example of what happens. We are all aware that the Chairperson of the CRA, Mr. Cheserem, visited Kitui County late last year and he was reported in the print media as having cried after seeing one of the primary schools and the kind of environment the children were learning in. This was a clear demonstration that this county requires to be focused on. What I am saying is that even as we think about this fund, let us think about proper targeting. I like the idea of moving this money from Nairobi to the lower levels, but in this country there has been a bit of confusion when we talk about devolution. People think that anytime you talk of devolution, you are talking about the county. The constituency is one of the lowest units of devolution, and that is why I like the idea of saying that we move this money to the lower level called the constituency, so that from that level the money could be disbursed easily to the targeted population.

I want to give an example. If you read the Public Expenditure Review Survey, which has been done by the Ministry of Education and the Ministry of Health, it has been confirmed that out of every Ksh100 released in Nairobi targeting districts, it is only about 30 per cent which gets to the districts. The rest of the money disappears through the administrative structure. So, what are we saying? We are saying that the more you retain the money in Nairobi, and as the money goes down to the districts, the more you lose it, not to the target group but to Kenyans who are just keen to pocket that money and do things other than targeting the population. So, with these kinds of statistics and reports, it is high time we started sinking money into the lower levels like the constituency and wards. This way we will be helping Kenyans who need to be helped.

But even as I support this Bill, I would like the Mover to think of what I am going to say. If the money moves to the constituency level and you want to do a road which traverses two or three constituencies, we will need to think of how not to lose money in the process. We can do one big project; when I start doing something in my constituency I do not want to know what hon. Nkaissery is doing. When we take money to the constituency and do water projects which move from one constituency to the other, at the end of the day we may end up doing small projects with minimal impact. We can ensure that we do not lose those things that can be lost while implementing big projects.

Hon. Temporary Deputy Speaker, the other thing I want to say is that we need to think of the board, the departmental heads or technical people from departments. The Government is represented at the lower level by departments. For example, there are

public works, water and roads departments. We need to think of how to ensure that even as we do these small projects, these technical departments are part of the whole process.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Hon. Kajwang’): Member for Kitui Central, following discussions that came from another hon. Member, if this Bill is passed, and if this amendment is affected, it may mean that Parliament may have to come up with a clear-cut law that clearly establishes, or clearly delineates, how it will be used properly,. This is because the Constituencies Development Fund (CDF) is from an Act of Parliament out of another fund established under the Constitution. So, even though the CDF Act is there, it may as well copy from it, but there has to be a very clear legislation dealing with this; perhaps, that can capture the kind of things you are talking about. So, you may want to think ahead, As you debate, think of how to operationalise the changes you are talking about.

We had agreed before the Leader of Majority Party came that we were going to follow the list of requests, but as you are aware, in the Constitution, the Leader of the Majority Party enjoys some rights that not all hon. Members have, because as Orwell says, “All are equal but some are---”

Hon. Members: More equal than others!

The Temporary Deputy Speaker (Hon. Kajwang’): That is right!

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, this morning I want to speak as the Member for Garissa Township and a pastoralist. If I do not contribute to this Bill brought by hon. Lelelit, then I will be doing a lot of injustice to the people of northern Kenya and marginalized groups.

From the outset - I do not want to be controversial - I want my colleagues to see that I am not controversial; I want to state the following facts, that in 50 years of Independence, we pastoralists have not produced a president, a deputy president or a prime minister. It is these positions that were used to develop the country. Eastern Province produced a vice-president; the Rift Valley produced a president and a deputy president; Nyanza produced a prime minister; Western Province produced a vice-president thrice. The Coast region and northern Kenya, the pastoralists, have never produced any of these figures. The closest they have come is this time when they have produced a Speaker of the Senate. What am I coming to?

Hon. Temporary Deputy Speaker, during the successive regimes of the late Jomo Kenyatta, retired President Moi and retired President Kibaki, State offices were used to develop regions. Today, it is only in the pastoral areas where you cannot see a kilometre of tarmac road. It is only in the northern Kenyan region where you can count the number of health centres in existence, which do not even have facilities. It is only in the northern Kenya region where there is no good education system. I can even say that previous successive regimes in this country perpetuated conflict, so that people in the northern Kenya region could live in abject poverty.

The framers of the Constitution of Kenya, 2010, did justice to the people of Kenya. Firstly, they introduced devolution as a vehicle for development of the marginalised areas of this country; secondly, there is the introduction of the Equalisation Fund, which is pegged at 0.5 per cent of national revenue. It is sad that today the people who will not benefit from devolution are, again, those in the northern Kenya region.

Devolution was meant for the marginalised parts of this country. I want to confirm from the Floor of this House that the governors we have elected in Garissa, Wajir, Mandera, Isiolo, Marsabit, Turkana, Samburu, Pokot and in some parts of the coastal region have become enemies of the people of those regions.

Hon. Temporary Deputy Speaker, the 2013/2014 Budget period is coming to an end but if you visit those areas, you will not see any sign of devolved funds. I am not saying this just for the sake of it. The first object and function of the devolved governments is to promote democratic and accountable exercise of power. I am not speaking for other regions. I am speaking for the northern Kenya region. What we see in our region are governors moving around in convoys of 50 cars on the most dilapidated roads in the country, and amongst the poorest people in this country, while flying the national flag and demonstrating flamboyant power.

That is not what devolution was intended for. So, we have lost the import of devolution. I am sure that the people of the northern Kenya region feel the same. Some of us chose to be Members of Parliament. We could have chosen to be governors or Senators. The developments that can be seen in the northern Kenya region today are schools and health centres that were built through the Constituencies Development Fund (CDF). I am not saying this just for the sake of it. If you go to any constituency, you will see the impact of the CDF. What is the CDF? The CDF is the smallest unit of devolution in this country. The CDF is not hanging anywhere between the national Government and the county governments. The CDF is in the counties. It is the smallest unit of devolution. The smallest unit of the former Provincial Administration is the sub-location.

Hon. Temporary Deputy Speaker, what am I saying? The framers of the Constitution of Kenya, 2010 gave 0.5 per cent of the national revenue to the people of the northern Kenya region and other marginalised areas. I want to tell my colleagues, please; we want your support. As you know, this is a constitutional Bill. We want you to help us raise the two-thirds majority when it comes to the final stage of this Bill. I am humbly requesting for your support. I will be on my knees. I want to tell hon. Members from the regions of this country that have produced presidents, vice-presidents and prime Ministers that it is now our time.

Our numbers in the marginalised areas are small because the child mortality rate in those areas is very high due to lack of health facilities. Our children are dying. In terms of numbers, we could be more than the Kikuyu, the Luo, the Kalenjin and the Luhya people were it not for the high mortality rate that is prevalent in that region. It is not all mothers who deliver successfully in that area. The region has a high child mortality rate. We have no hospitals. Please, help us build hospitals in the northern Kenya region, and I can tell you that the pastoralists in this country will have the highest population.

Hon. Temporary Deputy Speaker, we have no roads. As pregnant women go to hospital, they suffer miscarriages because of bad roads. Our youth die because of cattle rustling. My colleagues, I urge you to support us during the final stage of this constitutional amendment Bill. As the Speaker said, on the day of final stage of this Bill, even after we raise the required numbers, we will still have to come up with an Act of Parliament. I want to ask my colleagues from the rest of the country, from the Floor of this House, to support this Bill. History will judge you.

Three successive regimes made us suffer. The leadership of those regimes made sure that we did not have roads, water and electricity. We want the Eleventh Parliament to make a difference. We want you to stand with us. Civilization in the northern Kenya region ends in my constituency – Garissa Town. It is the leadership of President Uhuru Kenyatta that has decided to do 140 kilometres, from Garissa to a place called “Modogashe” in hon. Shidiye’s constituency.

Hon. Temporary Deputy Speaker, we, the people of the northern Kenya region did not choose to be pastoralists. I did not choose. I wish my people had a choice. In central Kenya, western Kenya and Nyanza regions there are areas which do not have roads and electricity. But if you overfly those regions you will see some semblance of tarmac roads. Overfly Samburu and Turkana areas, and the north eastern region.

Hon. Nyenze:---(off-record)

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, Ukambani produced a vice-president, even though he is no longer on the job. He was a Minister for 30 years. If he is not on the job, that is a different thing.

I would like the Leader of Minority Party to allow me to use my time. He will contribute when his time comes. I am only stating a fact. They had Cabinet Ministers for 30 years and a vice-president.

Hon. Ng’ongo: On a point of order, hon. Temporary Deputy Speaker.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, I do not want to lose track. This is a very important Private Members’ Bill. I know that hon. Mbadi’s constituency and county may have been marginalised, but I am sure that the man who taught me politics – former Prime Minister Raila Odinga – at least did his bit for the Nyanza region when he was in office. I can bring evidence to prove that point.

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Duale, your time is up. Please, resume your seat.

Hon. Kamama, where are you? I cannot see your intervention? I had you on my screen but I do not see you anymore. Can you press your intervention button? You must have released it.

You may now proceed.

(Loud consultations)

Order! Order! Hon. Members, you need to realise that you are debating a constitutional amendment. We are on Members’ Private Bills. This is the kind of business that you and I come to perform in this House. So, I expect more seriousness than we have when we debate other Bills. This is a Private Members’ Bill, which also happens to be a constitutional amendment Bill. So, I expect more seriousness than you can show.

Please, proceed, hon. Kamama.

Hon. Abongotum: Thank you very much, hon. Temporary Deputy Speaker, for granting me the opportunity to contribute to this very important Bill to amend our Constitution as it relates to Article 204. I want to, first of all, thank my good friend and neighbour, hon. Lati Lelelit, Member for Samburu West, for coming up with this very important Amendment Bill. A lot has been said about marginalization. I come from some of the special areas that have been totally marginalized by all the regimes in this

country. My constituency was, I think, number four, before we created the new constituencies. It is number four from South Sudan. I border my good friend, hon. Ngikor. We have Turkana Central and the then former Turkana North. Those areas are totally marginalized. Even during colonial times, we used to be managed by some ordinance called “outlying districts” or “special districts.” You could not come to those parts of the country. My good friend hon. Ngikor can actually admit that some of our people would say you could not go to “Kenya” unless you had a pass.

My good friend, the Leader of Majority Party, has spoken for most of us and so was the Mover of this Bill. We really want to support this and I want hon. Lati to go a notch higher by making sure that all the parties are involved in mobilization, so that so many of us can vote for this Bill. I want him to start with the party, go to CORD, go to Jubilee and then lobby the hon. Members, so that we can see this amendment through. I know there are those who are benefiting now. We want to plead with them to come to our rescue.

If you go to a place like Tiaty, it is close to the famous hot spot - the famous Suguta Valley. Actually, I share Suguta Valley with hon. Ngikor, and hon. Lati, who is the Mover of the Bill. This is one of the places that have been left to the mercy of the rustlers and bandits. I think I have been on record in this House saying that, that is an area that has no Government. But we will try, especially those of us who are here now, to make sure that we have the Government in those particular places.

I want to say that a Constitution is not a dead document. It is a living document. When we think of amending it---

Hon. Temporary Deputy Speaker, I am being interrupted by my good friend. Why do you not relax *bwana*.

Hon. M’uthari: On a point of order, hon. Temporary Deputy Speaker. Thank you, hon. Temporary Deputy Speaker. I am actually surprised! I want to find out whether the hon. Member is in order to state that there is no Government in the area he is calling the Suguta Valley. I want to imagine that a Government--- The president was elected---

The Temporary Deputy Speaker (Hon. Kajwang’): Hold on!

Hon. M’uthari: Yes, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang’): I want to hear what is out of order and not an argument.

Hon. M’uthari: The point of order is this: Is the hon. Member in order to suggest that there is no Government in Suguta Valley?

The Temporary Deputy Speaker (Hon. Kajwang’): All right. That is well taken care of. Hon. Abongotum, are you suggesting that there is no Government in that place that you are referring to? Which is that place, anyway?

Hon. Abongotum: Yes. If you ask hon. Members from that region, they will respond in the affirmative. It is our duty, even being the Chairman of the Committee on Administration and National Security---

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Abongotum, I hear the Member suggesting that by saying that there is no Government in any particular part of this country, you are saying that some people are not within Kenyan territory.

Hon. Abongotum: Yes. How do you describe a region that has no assistant chief, police stations and no presence of--- Anyway, let me continue prosecuting the matter.

(Loud consultations)

The Temporary Deputy Speaker (Hon. Kajwang’): Order! Resume your seat. Order! I think what the Member is saying is simple; that you can say that a place looks like there is no president. That is all right, but to suggest that there is no president in an area is another matter. Can you just correct yourself? State your opinion and make it---

Hon. Abongotum: Okay! Let me put it in a more juicy way!

(Laughter)

There is less presence of Government!

The Temporary Deputy Speaker (Hon. Kajwang’): Yes. That is all right.

Hon. Abongotum: Hon. Temporary Deputy Speaker, I raised this recently when I had a meeting with all top security officers. I told them that they need to take the Government to those places. I was very categorical. I just want to say that we need to amend this Constitution. Hon. Members, do not fear to amend this Constitution. The American Constitution has been amended many times - I think 25 times by people like Hamilton in Philadelphia. I think it has now been amended 28 times. It has been amended by Jefferson and those other Presidents and famous Americans. So, we need to amend this, so that we can actually take development to 78 per cent of Kenya. About 22 per cent of Kenya is slightly developed. Why should we leave the 78 per cent at the mercy of poverty, people living in squalor and high mortality rate? All the bad indicators that you can talk about are found there. I have had an opportunity to be a Government officer, and let me tell you what obtains in North Eastern, the Upper Eastern and the Upper North Rift, that is in Pokot/Turkana region. People are just, I would say, *kuvumilia*. People are just saying that they support the Government because --- Actually, most of them supported this Government. They voted for it to the last man or woman, *mundu khumundu*. This is the time when we want the current regime to make a difference in our regions. We do not want to stay like we used to stay during the colonial period.

If a formula is wrong, its result cannot be right. The Constituencies Development Fund (CDF) is the best model in the entire Continent, from the Gulf of Sirte in Libya up to Cape Town. This is the best development model that has ever been formulated in Africa. That is because 95 per cent of that money goes directly to projects. About 3.5 per cent goes to administration. What we have in the counties now is a sorry state of affairs. That is because 70 per cent of the money goes to pay salaries and the remaining 30 percent is for development. There is also a lot of corruption on the 30 percent that is going to development.

I want to say the following about governors in Isiolo, West Pokot, Turkana and Kitui; those governors are using chase cars and sirens. Do you need a chase car in Isiolo or Kitui? You do not need it. You just need one Land Cruiser and that is enough. When you hear that in Kilifi - and I am repeating this - where poverty is in the range of 80 per

cent, a governor bought a house for Kshs.140 million, you get annoyed. There are people there who are living in total squalor, deep penury. I think we are getting it wrong and I think we should have our priorities right.

Hon. Temporary Deputy Speaker, I can see the faces of Members from those marginalized regions, they want to speak like yesterday. I wish to totally support and I want CRA to change its formula. I want hon. Lati to do a lot of lobbying, so that we can change this section and develop the 78 per cent of this country that was left at the mercy of poverty - I think at the mercy of Satan.

Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang’): The Member for Mandera South.

Hon. Huka: Hon. Temporary Deputy Speaker, I thank hon. Lelelit for coming up with this Bill. It is timely and I urge my colleagues to support it.

The Bill seeks to devolve further, that is to the constituency, the money allocated to the Equalization Fund. Equalization implies that those who are behind should be pulled up to be at the same level with those who are already ahead.

Northern Kenya, or the ASAL areas of this country, which have the largest land mass of the country are highly marginalized. Unless we use affirmative action they will not be at par with the rest of Kenya; we will not talk about development unless we pull the ones who are behind to be at the same level with those who are already ahead.

Hon. Temporary Deputy Speaker, at Independence, the founding fathers of this nation talked about the enemies of our people. They named lack of education, health facilities, water and roads as the challenges we faced at that time. Northern Kenya is still having the same problem. There has not been much change in terms of development in those vital areas for the last 50 years.

Mandera South Constituency, which I represent is one of the most marginalized areas of this country. It gets the highest allocation of the Constituencies Development Fund (CDF). If we go the way we are suggesting, we may be better off in the 20 years that are targeted for this Equalization Fund, and if it is devolved to the constituency level.

Hon. Temporary Deputy Speaker, I therefore, strongly support this Bill. So that it is fast-tracked, we request all the Members of the parties from the CORD Coalition and Jubilee side to support it. We cannot talk of supporting those who are behind in development unless we say and do it; this is the time when Members of the National Assembly, who do not come from the regions which are behind, should support us. My request to hon. Members is to be with those of us who come from marginalized areas, so that this Bill is passed.

Hon. Temporary Deputy Speaker, the former Northern Frontier District during the colonial time was administered under what was called “Contagious Districts Act”. The only thing that happened there was that people followed the orders of the colonial government. The issue of development was never mentioned.

Education, which is supposed to enlighten the people, and which is supposed to make sure that people ask the Government of the day for their development rights, was curtailed; people were not exposed to knowledge.

If I may say it, before 1910, central Kenya had secondary schools but in the Northern Frontier District, the first primary schools were started in the late 40s. That

means that we were 40 years behind in terms of development. Existence of education is one of the indicators of development; therefore, our communities are behind.

Hon. Temporary Deputy Speaker, it is high time the CRA increased the percentage they use, so that the marginalized areas, which we represent, are at par with the rest of the country. The Constituencies Development Fund (CDF) is the best thing that has ever happened. Last week, I was in my constituency and we were able to plan for and initiate the construction of 40 classes. We are now starting constructing classes when the rest of the country is at the actualization stage in terms of improving the already existing facilities. We are moving our children from under trees and building shelter for them now. The Government is talking about laptops, yet we do not even have classes.

I urge the Mover of this Bill to canvass effectively with the likes of my colleague, hon. Mbadi, so that they can stand with us, support us and make sure that this Bill is passed with the two-thirds majority that it requires. It is high time that the rest of the country noticed that the people from northern Kenya are now up standing and asking for their right contrary to what has been assumed, that they will only wait for relief food. We no longer need relief food; what we need is an Equalization Fund, so that we develop our roads, health centres and water systems. We will use the water systems to irrigate our land. This has already been done in Turkana and it is going on. We can also do it in our area. Instead of waiting for relief food, we can use this money to do a mega irrigation project and come up with development in our area.

Hon. Temporary Deputy Speaker, I beg to support.

Hon. Shill: Thank you, hon. Temporary Deputy Speaker. I support the amendment of the Bill on the Equalization Fund. I also want to join other Members who have spoken. Kenya has just celebrated 50 years of Independence. It is half a century old. Half a century are many years. It is only in 2010 after the passing of the Constitution that this country has recognised that there are marginalized areas and, therefore, we must give them Equalization Fund. I thank Kenyans for passing that Constitution.

We are all Kenyans but we have had the haves and the have-nots for 50 great years. Article 204 of the Constitution provides for basic services, so that we bring the quality of marginalised areas to the level generally enjoyed by the rest of Kenyans. That means that the rest of Kenyans are really enjoying basic services, while some areas in Kenya are not enjoying them.

Before Independence, the British carried out a kind of survey and asked us whether we wanted to join Somalia or Kenya, and 87 per cent said that they wanted to join Somalia. We, in this generation thought that, that was wrong because we belonged to Kenya. Even when Somalia disintegrated, we said that really they had a wrong choice; therefore, we were very happy to be in Kenya. The reason why they really wanted to join Somalia was that they feared that they were going to be marginalized. True to their fears, we have been marginalized on basic needs for 50 years. What are those basic needs? They include water which is essential for life.

We are now a privileged class. This morning we went to our bathrooms and took a shower. Some of us have swimming pools but there are some Kenyans who cannot get a drop of water to drink. Let us be a bit passionate. If you are denied a drop of water for 50 years, are you really a Kenya citizen? When we go to shops to buy mineral water, some people wonder. In Turkana, North Eastern Province, Maasai areas, Samburu areas

and Kitui people wonder why we buy water. This Government and previous governments must be ashamed of themselves when they see our mothers, sisters and the elderly trekking long distances to look for water.

Most of those who are serving were also in the other Governments.

In terms of health, just imagine being in a remote area in Samburu or Mandera, you have a serious headache and you cannot get a tablet of medicine. There are even no shops to buy those kinds of things. Think of a pregnant young mother in labour with nobody to assist her. For 50 years, this is how our mothers have lived. Some of us in this Parliament were lucky even to survive. You see elderly people with diabetes or cancer suffering, yet we call ourselves an independent country. We talk of LAPSSET or the Standard Gauge Railway and we are all quarreling over money while other people cannot get a tablet of medicine.

I am happy to hear from the Member for Kitui Central how they labour hard to grow maize. Recently, all their maize was destroyed by aflatoxin just because they could not get a drier to dry their maize. On the other hand, in the Rift Valley, people are given money easily and their maize is good. There is no equality. In my area, as rightfully put by hon. A.B. Duale, tarmac ends at Madogo. From there, there are no roads. The former President Moi came to Garissa, Wajir and Mandera and said the Government would build roads for us. He went away. Former President Kibaki came and said that they would build roads for us and he went. Even President Uhuru came and said that he was going to build roads for us. We are still waiting. This is the way things have been.

Look at the image of Kenya; always when we are trying to promote tourism, which earns us a lot of money, you will see the face of a Maasai, yet they are really suffering. If you want to see the face of hunger, you will be shown a Turkana. Why should the face of hunger be a Turkana? We are told there is water underneath Turkana land that can give the whole of this nation water. What would it take for the Government to bring that water to the people? When oil was found, every Kenyan wanted to become a Turkana. They are saying that these are national resources and they belong to all Kenyans when the Turkana wanted their people to be employed. This is the kind of Kenya that we have; a man eat man society. It is a fact.

We are talking about rural electrification. For us, even getting paraffin to light our houses is difficult. These are stories told in this august House every time. These are stories told to our Presidents, Deputy Presidents and Cabinet Secretaries, yet the status prevails. They will listen to you and that is the end. You will see some parts of this country where roads have been re-carpeted over 20 times. Are we really equal? Are we the same Kenyans? We are not.

We want to change these things. We want to see communication everywhere. The other day, we were shown on television people in Turkana, or elsewhere, going to the top of a mountain to access mobile phone networks, so that they can communicate with others. It is difficult. These are basic needs. During the campaign time when people go to these areas, we are told about identity cards and water. People beg for identity cards and water as if they are not Kenyans. These amendments say that we have devolved money from Nairobi to other parts. We want this to go to the constituencies because the CDF has shown a very good example. It has been proved that our county governments are not

doing well. All the money is stuck in the bank; about Kshs82 billion is stuck in banks because they do not have the capacity to utilize it.

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you very much. That was well taken. Let us widen this debate. I think we should. Let me recognize the Member for Kajiado Central.

Hon. (Maj-Gen.) Nkaisery: Thank you very much, hon. Temporary Deputy Speaker for giving me this opportunity to contribute on this very important Bill. From the outset, I would like to thank the Mover, hon. Lelelit, for bringing this very important Bill, which affects the most marginalized people of this Republic. The Equalization Fund, as indicated in the Constitution, should have 0.5 per cent of our revenues. It is a very important provision that this Constitution made, so that the marginalized areas can be brought to the same standard with the rest of the country.

The marginalized areas are very many. It is amazing that for the last 50 years, areas like Turkana, North Eastern, Pokot, Samburu, Tana River, Makueni, Kitui and Maasai land, have been marginalized. These areas generate a lot of foreign exchange, but nothing goes back to develop them. When you look at the Maasai Mara alone, a place which is considered one of the wonders of the world, once you pass Narok Town, it becomes a nightmare to get there. A lot of foreign exchange is generated by the Maasai Mara and nothing goes back to develop the area. All of that foreign exchange is brought to Nairobi; it is misused; it just disappears.

When we talk about 50 years, and my good friend, hon. Kamama, talked of the Suguta Valley, where there is no Government, he wanted to explain about anywhere else in the Republic where we do not have services, roads and other facilities such as police stations. That means that there is no Government. More importantly, we lost 47 policemen in the Suguta Valley and to date, their guns have not been recovered. That means there is no Government there.

Let me come back to the main point of this Bill. I want to condemn in the strongest terms the CRA, because the formula they are using is to permanently marginalize some areas. I personally went to talk to this Commission; they said Kajiado is one of the richest counties in the Republic, but it has the most undeveloped areas in this Republic. After Kitengela and Kiserian, the rest becomes a wild west. Apart from the CDF which came to rescue some of us, those areas were marginalized. When you look around in the Chamber now, the majority of the honourable Members in this House are from marginalized areas; they have a passion but know that their areas are unlucky.

(Applause)

We insist that the constituencies will be the most appropriate areas to disburse this Fund. The issue of roads and water--- I can assure you that from my experience in my former career, I have been to Turkana and upper North Eastern, in Moyale, Kibish, Butel, Kadaduma, Banisa and Lamu. These are areas you cannot easily reach. I am sure you are wondering whether the areas I am talking about are in Kenya.

We want this money to really help our people. The Leader of Majority Party said that civilization ends on the other side of Tana River. When you get to Garissa, that is the end of civilization; you do not see any tarmac. When you come to Kajiado, the only

road there is an international one, which we read about when we were young kids, the great north road, the Athi River-Namanga Road, but it is not part of Kajiado. So, we do not have tarmac roads. There are marginalized areas like Pokot, Turkana and some parts of Suba like where my friend comes from. That is why he is with us here; they are totally marginalized. I plead with this House; let us pass this amendment, so that these marginalized areas can be brought to the same standard as the rest of Kenya.

With those few remarks, I support.

The Temporary Deputy Speaker (Hon. Cheboi): Thank you, very much. Yes, Member for Bureti.

Hon. Sang: Thank you, hon. Temporary Deputy Speaker for giving me this opportunity to contribute to this Bill. I want to ask Mhe. Akwat to give me time because I came in a bit early and we were informed that the three of us are supposed to contribute.

I want to support my friend, *Mhe* Lelelit, for bringing this Bill. I know it is long overdue and I do understand that a good number of Kenyans are going through challenges everyday. I do support hon. Lelelit for stating in this Bill that money should go directly to our constituencies from the national Government. This is because in the constituencies, we have seen success stories of our CDF, which we have used to pay school fees, build classrooms, equip our hospitals, do electrification of our areas and construct roads.

I want to appreciate the fact that some of us are marginalized and request the CRA to probably define the word “marginalization”. This is because, we have been condemned by some of our colleagues, that because we have produced a president, we have no problems. I want to invite most of our friends to come to our areas, and see some of the challenges that we are facing in Kericho and Bomet, where we also have some areas which cannot access some of the very basic facilities.

I support my friend Lelelit, because once this Bill has gone through, in most of those marginalized areas, our people are going to access some of the basic necessities. I want to also appreciate the framers of our Constitution because they prescribed what this Equalisation Fund is supposed to do. It is supposed to provide basic services such as water, roads, health facilities, electricity and other basic things. I support it and encourage most of us to be around and vote for this Constitutional Bill. I want to urge our friends who come from those marginalized areas, to talk to us nicely, so that we can vote for it and have the Constitution amended. Thank you and God bless you.

The Temporary Deputy Speaker (Hon. Cheboi): Deputy Minority Party Leader, I cannot see your intervention? I am giving you this chance not based on gender, but because you are Deputy Minority Party Leader.

Hon. (Dr.) Shaban: I am the Deputy Majority Party Leader.

The Temporary Deputy Speaker (Hon. Cheboi): I am sorry; forgive me for that, Deputy Majority Party Leader.

Hon. (Dr.) Shaban: Asante sana, Mhe. Naibu Spika wa Muda. Vile vile, ningesema kwamba kuna umuhimu wa wewe kuangalia jinsi na kuhakikisha pia akina mama wanapewa nafasi ya kuweza kuongea kama wenzeo, ambao ni wabunge wa Bunge la Kumi na Moja.

Mimi nimesimama kwanza kumpongeza Mhe. Lelelit, ambaye anawakilisha Samburu Magharibi, kwa kufikiria kuwa itatubidi turekebishe Katiba kidogo ili

Equalization Fund iweze kueleweka vizuri. Maeneo yale ambayo ni duni hapa nchini kimaendeleo ndiyo hayakuweza kupatiwa hata pesa za kutosha kupitia serikali za kaunti. Sababu moja ya umuhimu ni kuwa na uchache wa watu. Katika tume ambayo inasimamiwa na Bw. Cheserem, walisahau kwamba maeneo hayo ndiyo yanayohitaji maendeleo mengi.

Kuhusu idadi ya watu, ukitumia asilimia 45 kugawa pesa, kwa sababu ya wingi wa watu, basi utaendelea kudunisha maendeleo kwenye maeneo hayo kwa sababu huko hakuna watu. Katika Taita Taveta pesa zile ambazo tumepatiwa mwaka huu, awamu hii ya kwanza ni Kshs2.8 milioni. Ukiondoa pesa ambazo ni za kulipa wafanyikazi, utaona kwamba pesa ambazo zimebaki ni kidogo.

Wenye kutengeneza hii katiba walijua wazi kwamba, kama kutakuwa na makosa kwa sababu asilimia kubwa ya pesa zinapatiwa sehemu kulingana na idadi ya watu, maeneo yaliyo nyuma kimaendeleo yatazidi kuumia. Hii ndiyo sababu wakaona waweke hazina hii ya kusawazisha maendeleo kwenye maeneo hayo. Ni kweli kwamba maeneo haya yasipoangaliwa kwa undani sana na kusaidika katika hazina hii, yatabaki nyuma. Hata hiyo miaka 20 ikiisha, maeneo hayo yatakuwa bado nyuma kimaendeleo.

Ukiangalia, maeneo ambayo tayari yana maendeleo kama Nairobi, Mombasa na maeneo yenye watu wengi kama Bungoma, ndiyo yamepata pesa nyingi. Eneo la Turkana pekee ndilo limepata pesa zaidi ukilinganisha na maeneo mengine. Hazina hii imekuja kuokoa wananchi, lakini isipoangaliwa vizuri itatumiza badala ya kutusaidia.

Ningeomba hazina hii itumie maeneo Bunge wala si maeneo ya kaunti. Hii ni kwa sababu utapata mahali kama Homa Bay, kule Mhe. Mbadi na Mhe. Millie Odhiambo-Mabona wanakotoka, kusema ukweli kuna shida; hakuna hata barabara ya lami. Matatizo yao ni kama yale yanayotukabili sisi. Ukienda maeneo ya Baringo, utapata kuna maeneo makame sana na yenye matatizo makubwa; ijapokuwa eneo lote la Baringo unaona lina afadhali, kuna maeneo bunge ambayo yako vibaya sana.

*[The Temporary Deputy Speaker
(Hon. Kajwang' left the Chair)]*

*[The Temporary Deputy Speaker
(Hon. (Ms) Mbalu) took the Chair]*

Vile vile Marsabit ni sehemu kubwa sana; unaweza kuunganisha mikoa kadhaa katika nchi hii ili upate eneo moja linaloitwa kaunti ya Marsabit. Ukiangalia huoni hata chembe ya lami katika eneo hili. Bila kuwa na barabara ambazo zinaweza kupitika ni shida sana kuwa na maendeleo. Vile vile, ni shida sana kwa watu kifikia huduma za afya wakitumia barabara ambazo hazifai. Ningeomba wenzangu wote kwamba asimilia 67 ya Bunge hili liweze kuunga mkono marekebisho haya ili tuweze kurekebisha Katiba. Katika hali ya kuiendeleza Katiba hii kuweza---

Mhe. Spika wa Muda, kuna maswali ambayo ni lazima tuyaulize. Wananchi wanafikiri kwamba Wabunge pamoja na Maseneta wanalizungumzia jambo hili kwa sababu wanataka kufikia zile pesa za maendeleo. Pesa za maendeleo zinatakiwa kusaidia watu mashinani ili waweze kuendeleza maeneo yaliyoachwa nyuma. Itakuwaje tunatarajia kuwa na kiongozi mmoja ambaye amechaguliwa kama wale wengine, na akae

peke yake kufanya hivyo? Hata ukiangalia sasa hivi, ijapokuwa Serikali ya Jubilee ilitoa asilimia 32 ya pesa badala ya asilimia 15, maswali yaliyopo ni, pesa hizi zinaweza kufanya nini? Zinaweza kusaidia mwananchi?

Tungependa kuwe na bodi ya kusimamia maendeleo ili sote tuweze kuhusika na tujue pesa zitatumika vipi pale mashinani. Si kwamba tuna chuki kwa magavana, la! Tunataka maendeleo mashinani yaweze kufika, na tuweze kufikia malengo ambayo Katiba inaazimia. Tunataka maendeleo yaende mashinani ili wananchi waweze kujiendeleza.

Naibu Spika wa Muda, tulichaguliwa na wananchi, hatukujichagua. Kwa hivyo, kuna umuhimu wa hiyo bodi kufanya kazi mara moja. Tukipitisha hii sheria tutahakikisha kwamba mambo ambayo tunayasoma na kuyaona – tumeyaona mengi lakini si saa hii ninatafikana kuyazungumzia. Wakenya wanafahamu kwamba tuko hapa na tuna haki ya kuwapigania hasa katika maendeleo. Maana ya ugatuzi ni kung'atua pesa kutoka Serikali ya kitaifa na kuzipeleka mashinani.

Asante sana. Ninaunga Mkono.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you, hon. Dr. Shaban. We have 33 requests from the hon. Members who want to contribute to this Bill. Do I get it from hon. Members that you want us to reduce the time for every hon. Member to speak for at least---

A hon. Member: Yes, reduce it to five minutes.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): How many minutes?

Hon. Members: Five minutes! Three minutes!

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Let it be five minutes.

Hon. Kemei: Thank you, hon. Speaker. I wish to thank hon. Lati for bringing the Constitution of Kenya (Amendment) Bill. I give it my full support.

Hon. Temporary Deputy Speaker, we need to make constituencies the focal point for the distribution of the Equalization Fund. The reason for this is that, if you look at Kericho County where I come from, my constituency, Sigowet/Soin, is not different from any Arid and Semi Arid Land (ASAL) area in this country. It is not different from Sigor Constituency represented here by my colleague, hon. Rotino. It is not different from Kacheliba or what the local people call, *Kwachalibai*. It is one of the most marginalized parts of this country. I do support that we change the focal point for the Equalization Fund to be at the constituency level.

Secondly, if you look at the poverty index, the rate of development and the infrastructural development in the country, you will realize that certain parts of the counties which we consider as the most developed, are actually marginalized. Imagine when one talks about Kericho County---

(Loud consultations)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, can you do your consultations at a bit lower tone? We want to hear what hon. Justice Kemei is presenting to this House.

Hon. Kemei: Thank you, hon. Temporary Deputy Speaker. The imagination of people about Kericho County is that, it is a county where there is rain day in, day out. The imagination about Kericho County is that it is a tea growing county. Where I come

from, 75 per cent of the constituency gets very little rainfall. Seventy five per cent of the constituency is not good for arable farming. In fact, without irrigation we cannot realize any agricultural development in the bigger part of the constituency. That is why I support that the constituency be the focal point for distribution of funds.

Hon. Temporary Deputy Speaker, when the colonial government took over our prime lands, they pushed people to my constituency, so that they could be finished by malaria. It is likewise for Suba people, who inhabit my constituency. When that could not work, they pushed them further to hon. Ng'ongo's constituency. Luckily, the tsetse flies that were in Suba Constituency could still not finish them. We need the Equalization Fund in my constituency, so that we can develop.

Finally, I want to join hon. A.B. Duale in praying that one day we shall have a president or a deputy president from the marginalized communities of our country. I want to pray God of all creation that even Sigowet/Soin Constituency shall one day produce a president or a deputy president.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, let us avoid approaching the Chair. I have your requests; of course, I know for different reasons you can always come to the Chair, so that we can manage the House better. I have your requests.

Let me hear what is in hon. Ng'ongo's region. Let us hear whether you are marginalized.

(Several hon. Members stood up in their places)

Hon. Members, nothing is out of order; you are out of order.

Hon. Ng'ongo: Thank you, hon. Temporary Deputy Speaker. Really, nothing is out of order. I agree with you. Being a little bit senior in this House, I would like to tell my colleagues that nothing is out of order.

Let me proceed and support the Bill. I want to support the Bill by saying the following: One, even though some of us, within our areas, are equally marginalized, I want to tell this House that it is even worse to be marginalized in an area that is not marginalized, because you will really feel out of place. I will tell this House that if you come to Suba Constituency, you will realize that it is the only constituency in the province--- Actually, it is not even like hon. Angwenyi's constituency that does not have even an inch of tarmac road. All the other constituencies have, at least, some tarmac road. If you come to Suba Constituency you will find that it is the only constituency in that region – the former Nyanza Province – that does not have one inch of tarmacked road. Then you will really feel so marginalized.

We must also accept the fact that some regions are just excessively and extremely marginalized.

Hon. Temporary Deputy Speaker, if you fly to some of the regions like Samburu and northern Kenya, you really cannot say that you come from a marginalized area. Let us not confuse this Bill for something else. This Bill is not adding the Equalization Fund. It is only suggesting that we have a system where the Equalization Fund is applied directly to the constituencies so that we do not allow the national Government to be

determining how and when the Fund should be used. I think this is a good move. However, we should think of deliberate efforts because 0.5 per cent of our ordinary revenue is very low. Let us think of deliberate efforts to help those areas that have been persistently and consistently over the years been marginalized, for example, North Eastern Province. This is why there is a lot of disenfranchisement in this country! Some regions even do not want to vote because they do not see the value of voting. It is high time this country looked into the interest of these marginalized areas to bring them up to where other regions are.

Before I sit down, I want to disagree with my friend who has just walked out, Dr. Naomi Shaban. Since we came to Parliament, we have been very good friends even though we are on the opposite sides of the political divide. There is this talk about governors and county governments. As Parliament, we need to exercise patience with county governments. These governments just came in place in April last year. We must accept that to set up structures is not an easy thing. It is not good for us as a country to demonize and start criticizing county governments early in the day. We will lose this devolution if we are not careful. We will make Kenyans be disillusioned at devolution. We need to protect county governments. Let the governors run even for two years after which we will be able to judge them. It is too early. Even when we talk of absorbing these funds--- That is why I was opposed to giving so much money to the counties in the first year. This is because it was not going to be easy for the governors to absorb that money within the short period that we gave them.

Hon. Temporary Deputy Speaker, there is still time. I do not know why there is this hurry in trying to condemn the governors. I know hon. Angwenyi, my teacher, is now not happy, but I will tell you as a fact and as someone who has extensive knowledge and experience in financial management that it is not easy to absorb funds within six months. Let us give these governors time to settle in their jobs. Let us minimize criticism after which we will be able to judge whether or not they are able to deliver. If anything, they will be sorted out by the voters. Why should we so much be stressed by something that can be sorted out?

Thank you, hon. Deputy Speaker for giving me this chance. I support this Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, we have reduced the time to five minutes. Please, budget your five minutes. I have 29 requests and all of them will speak. Let us have some decorum in the House and we will get there. Can I hear the voice of Ali Wario, hon. Member for Bura?

Hon. Wario: Thank you, hon. Temporary Deputy Speaker for giving me this opportunity. From the outset, may I declare my intention that I want to move a further amendment at the Third Stage in order to include “education”. Pastoralism is the most understood way of life. Why am I saying so? If a lot of research and resources were to be put in pastoralism, we would not be where we are today. If you read both the Quran and the Bible, you will realize that 75 per cent of the prophets were pastoralists. Unfortunately, they were misunderstood. Maybe that is why we are undergoing what we are undergoing today. Even Jesus was a pastoralist. Maybe that is why we are misunderstood today like those prophets.

The Sessional Paper No.2 of 1965 divided this country into two portions: The high potential and the low potential areas. The perception was that the high potential

areas were going to feed the low potential areas. Now, 50 years after Independence, the low potential areas are becoming lower by the day in terms of production. It is because of this Sessional Paper No.2 that the pastoralist areas are undergoing what they are now undergoing. I would wish to share with you some policies. If you read the Ominde Report of 1977 concerning the education standards in pastoral areas, Ominde was calling for a quicker intervention. This is because both retention and enrolment rates in pastoralist areas were deteriorating.

This was followed by the Koech Report in the 1980s which raised the red flag. They were telling the Government to intervene in matters of education in the ASAL areas. In 2000, the UNDP raised the same thing. There was no intervention in the Government. That is why Tana River is always leading from the back.

Hon. Temporary Deputy Speaker, I want to remind you of the historical injustices of the closed districts. There are some districts Kenya was not allowed to visit up to 1972. These are the districts we Members of Parliament are calling for intervention so that we can bring them at par with other districts. I am talking about Lamu, Garissa, Mandera, Moyale, Wajir and so on. This is Kenya. I am happy to stand here today because the drafters of the new Constitution brought Article 204 to mitigate the suffering of the people of ASAL districts. My request to hon. Members is that they can address this injustice and imbalance so that our children enjoy the benefits of Independence like any other children of this country.

Hon. (Ms.) Kipchoim: Thank you so much, hon. Temporary Deputy Speaker. I have waited for long since 9.00 a.m. I was here very early in order to contribute to this Motion. I want to take this opportunity to thank hon. Lelelit for bringing this Bill at the right time. I come from a district and constituency which was number one in this country, but it is unfortunate that today I can attest to the fact that--- I was in the constituency on Monday. I saw the sufferings of the people. These people cannot access clean water. They brought me water which was infested with leeches. These people do not have roads. You can note the way I am walking, it is not my normal walking style. It is because on Monday I walked for 45 kilometres. Today I cannot walk properly because I walked a lot and got tired.

Those places in Baringo South and Tiaty are stealing from one another and somebody is thinking here that I am fighting my good friend, hon. Kamama because he said that there is no Government there and yet he is the Government. So, you wonder which Government he wants. His people have started equalizing by stealing from all the other neighbouring constituencies. Today I am standing here as a very demoralized Member of Parliament because my people are not living in their houses because of this problem of unequalization. These people are suffering. They do not have animals; they have all been stolen. This is the first district. It was carved from Baringo Central which was represented by the retired President of this country. When somebody looks at me, they think that this is the only constituency that has everything. I want to tell this House that Baringo is one of the marginalized areas. The speaker who spoke before me told us that there were some districts which were closed. Baringo was one of the closed districts. You could only visit Baringo if you had a permit. So, the Equalisation Fund has come at the right time and I want to say that it should go down not only to the county governments. Let us, through the Member, see that we take it closer to the people. If it is

possible, it should go down to the locations that are marginalised and not only the constituencies. Some of the places in those constituencies are not bad but I want to say that our voters cannot access clean water and roads. Somebody said that Baringo has tarmacked roads. I want to ask this House to visit my constituency. They will be surprised not to see even an inch of tarmac road.

Hon. Temporary Deputy Speaker, it is the only constituency where children still go to school using canoes. It is the only constituency that suffers from floods during the dry season like now. There is no rain but there are floods occasioned by Lake Baringo. This Equalisation Fund should come like yesterday.

Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu: Thank you. The next on my list is the honourable Member for Turkana, Joyce Akai.

Hon. (Ms.) Emanikor: Thank you, hon. Temporary Deputy Speaker. I rise to support this Bill. First, I want to thank the framers of the Constitution for actually considering the poverty levels in the so called marginalised counties and also considering the historical injustices, vulnerability, destitution, poor infrastructure and the inadequate skills witnessed in these places.

Hon. Temporary Deputy Speaker, I want to support this Bill because when funds are devolved through constituencies, they will actually go to lower units of governance. These are units that are closer to the people and well versed with the grassroots needs and challenges. These are units that have the experience of supporting communities through the Constituencies Development Fund (CDF). The CDF has done a fabulous job in terms of development of communities and its impact has been heavily felt and is appreciated.

Hon. Temporary Deputy Speaker, once this amendment is passed I want to urge the managers and the implementers of the Fund to consider sectors that are very critical, particularly in these areas that are lagging behind and one of those sectors is education. This is in terms of bursaries and scholarships for secondary, tertiary and vocational training. We need to produce the required human resource and skills to exploit the opportunities that are actually found in some of these counties. I am looking at Turkana for instance where we have had these great discoveries of oil and water. We need skills that will enable our people to appropriately exploit these resources.

Hon. Temporary Deputy Speaker, Article 43(1) of the Constitution in Chapter Four of the Bill of Rights actually says that:

“Every person has the right –

(a) to the highest attainable standard of health, which includes the right to health care services, including reproductive health care;

(b) to accessible and adequate housing, and to reasonable standards of sanitation;

(c) to be free from hunger, and to have adequate food of acceptable quality;

(d) to clean and safe water in adequate quantities;

(e) to social security; and

(f) to education.”

However, the above are not realised in the country across the board. We have counties that do not realise this and as someone said earlier, we are all Kenyans and we are all entitled to the rights in the Bill of Rights.

Hon. Temporary Deputy Speaker, I want to mention something in terms of marginalisation even in this House. We are talking of marginalisation globally but we want to urge our constituency Members of Parliament to consider their women counterparts – the county Members of Parliament even in such funds where they will be able to manage them together. They will be able to implement programmes together and even at the constituency level we are talking of committees. Women are at the heart of all the problems we are talking of in terms of health, sanitation, maternal health and child mortality. We need to include women in the management of all these funds.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you, hon. Joyce Akai. Hon. Mohamed Abass of Wajir East. Hon. Members, you cannot come at 10 O'clock and expect to speak but we are going to do balancing. I said we have reduced the contribution time to five minutes and so every Member is going to speak.

Hon. Mohamed Abass: Thank you, hon. Temporary Deputy Speaker for giving me this opportunity. I want to join my colleagues to support the Bill. I think first and foremost we need to define what equalisation is because I can see everybody wants to get a grip of that little money. So, the Mover should be able to tell us what an Equalisation Fund will be.

Two, hon. Temporary Deputy Speaker, the Session Paper No.10 of the 1970s, as hon. Wario said earlier has really divided Kenyans into two. It is only ten per cent of Kenya that can to produce everything that will be able to satisfy other Kenyans. This is the mother of marginalisation and the cause of all the problems in Kenya today.

Hon. Temporary Deputy Speaker, there is a lot of disparity in development. If you go to parts of Kenya even where former Presidents have originated from, of course there is a lot of underdevelopment. It is not all equal but of course there are more developed areas. However, the worst marginalised areas in terms of poverty, lack of education, food security, electricity and water are actually mostly the pastoral areas. However, one thing I can tell you today is that pastoral areas have now become the high potential areas for oil, water, all the natural resources and livestock. It is only that they have not been developed. They have been underdeveloped and neglected for a long time. It is not our choice to live in these areas and, therefore, we are part of Kenya.

One thing that I want to tell Kenyans is that today's presidency is 50 plus one and every vote counts. The days of saying the majority have it is not there anymore. So, there is no one vote that is better than the other. Therefore, I think next time those who thought that because they are the majority they can get the presidency, *wasahau hiyo*. They should forget that one.

Hon. Temporary Deputy Speaker, one other thing is that if you look at the way students are being examined for the Kenya Certificate of Secondary Education (KCSE), it is biased. A student who comes from Ukambani or from Wajir who has never seen a railway, tea or coffee plantation is examined and asked about them and yet he or she has never seen how they look like. This is what obtains and yet all Kenyans do the same exams. I think that is marginalisation. We do not think at the same level.

One other thing is that in my constituency mothers walk up to 100 kilometres to fetch water and as a result the kids that they carry on their backs die on the way. These kids study under trees and under the scorching sun, you expect them to perform? It is not

that the students from the marginalised areas are dunderheads. It is because they are not given the opportunity to learn. The environment is too harsh and unfriendly that they cannot study well and comprehend what the teachers tell them.

Hon. Temporary Deputy Speaker, as a result of the harsh environment the people who are marginalised raid for animals and as a result they are harassed. They are called names like *shiftas*, cattle raiders and other funny names. This is not their choice but because of inequality, they look for survive. They cannot survive. They have no food. Even the livestock industry is not given attention like the way it is being done for the other places.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Member, your time is over. Let us get the voice of a bishop. Bishop Mutua.

Hon. (Bishop) Mutua: Hon. Temporary Deputy Speaker, for those who are saying I have just walked, let me tell them that I was here before many of you.

I want to support this Motion with a few points. If in this country we are serious about addressing the issues of inequalities, then we have to go this way. In this country, we have marginalized regions, communities and families. This particular Bill is important because it is going to enable us to address some issues that have always gone unnoticed. For example, when we talk about the arid and semi-arid areas, I want to say in this House that the worst place to be is in a semi-arid area because everything becomes semi. As we talk today, the semi-arid areas in lower eastern where people cannot have food, are going hungry. All they require to do is to have a massive water plan so that we can have issues of marginalization arising from drought. Harsh climatic condition is no excuse for any region to be referred to as marginalized because you have the technology that can take care of those kinds of harsh conditions. But the problem that we have is that we have not been honest enough to address the issues that are facing some sections of our country. Unless we address the inequalities through this particular fund and unless it is used very creatively, with honesty and transparency, then we shall not become cohesive the way we want to. Those people who have been marginalized feel so bad. Sometimes they wonder what national cohesion is all about because you cannot tell me to be cohesive when I am hungry while you are enjoying.

So, this is the first time that this House has an opportunity to look keenly into those regions, areas and sections within our society which are marginalized and address them accordingly. Whether they are in central, northern or eastern; we need to go deeper than to just say a region. Within some regions, there are communities that have been marginalized. So, this fund is supposed to go down until it identifies the people who have been disadvantaged. This is quite important and unless we do that, we will continue having inequalities within some regions going unnoticed.

Hon. Members: Amen!

Hon. (Bishop) Mutua: Hon. Temporary Deputy Speaker, this issue can be seen when you look at issues like education. There are some regions in this country whose education standards are so low and it is because of marginalization. We have come to realize that we are talking about a very serious issue.

Hon. (Ms.) T.G. Ali: On a point of order, hon. Temporary Deputy Speaker. I think the issue of marginalized areas should not be haphazard. A research was done, these

regions were identified and so it is not fair when we say there are others that have been left out. I think it was fairly distributed and we need to appreciate that.

The Temporary Deputy Speaker (Ms. Mbalu): I think nothing is out of order. Bishop, continue!

Hon. (Bishop) Mutua: Hon. Temporary Deputy Speaker, I want to inform the hon. Member that we are adding value to this Bill. We are not just discussing it.

Hon. (Ms.) Kiptui: On a point of order, hon. Temporary Deputy Speaker. I just wanted to bring to your attention that we can hardly hear what the hon. Member is saying. He is supposed to be contributing in a manner that we can understand. I think he is shouting so hard. I do not know why.

The Temporary Deputy Speaker (Ms. Mbalu): The hon. Bishop is not shouting. If you want to get the HANSARD, you can see what he is saying. I am sure he is communicating. He is a bishop by profession; he is speaking pure English. He is using the microphone and I am sure the message is being communicated and hon. (Ms.) Odhiambo-Mabona can say amen!

Hon. (Bishop) Mutua: Hon. Temporary Deputy Speaker, thank you. I hope I can be given time to say what I want to say and people can understand what I am saying because this Bill---

I am talking the way I am talking because I am passionate. I am a victim of this marginalization. Those who have never tasted what marginalization is all about cannot understand the seriousness of this Bill because this Bill is life and death to some of the regions of this country where some people have been left out and they can be easily ignored and nobody thinks that there is anybody who has been left out. For example, the disabled people in this country. Imagine those in North Eastern and pastoral areas who have to keep migrating yet you cannot walk. How do you expect those people to survive? So, we are talking about a Bill that requires to be looked into keenly to make sure that it addresses the real problems; not just a region. We are not saying that we go to a particular constituency or the other. No, even within the constituency itself, we would like this Bill to be scrutinized and communities to be involved in the usage of this particular fund.

The Temporary Deputy Speaker (Ms. Mbalu): Thank you Bishop for articulating the issues.

Hon. Limo: Hon. Temporary Deputy Speaker, I rise to support and wish to thank the Member for Samburu West, hon. Lelelit for bringing this amendment. I want to say that marginalization in this country has been going on for a long time and it is now time with the new Constitution to correct it. Many areas have been staying without proper infrastructure and the people there have been suffering. I want to support this amendment and further say that we need to also challenge the CRA for picking the areas which they have listed. If you look at the Constitution, Article 204(2) is very clear that marginalized areas are not specific counties. If you look at areas which have been mentioned by one of the hon. Members in this House, an area like Kitui, I do not think anybody needs to be reminded that part of Kitui is horrible. Even the CRA Chair, Mr. Cheserem himself cried when he visited the area. For some of the areas which have been treated as not marginalized, I am not very sure that even some of the hon. Members of this House coming from counties like Baringo are aware that Baringo is not part of the counties that

have been listed as marginalized. If you look at some of the areas like Keiyo Marakwet, Keiyo is better.

If you look at areas like Keiyo and Marakwet, you will appreciate that Marakwet is marginalised. The fact that Keiyo is better off does not really mean that they are not supposed to benefit from this Fund. In Kericho County, where I come from, areas like Kipkelion, Ainamoi and Sigowet have really been marginalised. There is no way they cannot be included in this Fund. So, as we support the amendment, I would like to call upon this House to look at the Constitution and enforce it to the letter. Given special attention to marginalised areas does not mean that we should only look at the counties. Let us go to lower levels and look at even locations and sub-locations. Let us apply this Fund to those specific areas.

In my constituency, you cannot believe that there are areas called Sailo and Ewat where people are carried on sacks because there are no roads. We cannot just talk about counties, let us go to lower levels. During the Committee Stage, we should bring amendments to enforce the Constitution, so that the marginalised areas can be looked at properly. I support that the Constituencies Development Fund (CDF) should be the appropriate model for actualising the proposal on the Fund. This is because if we leave this to the Ministry, we will not realise the development that we want to see in the marginalised areas.

I support the idea that the Government gives conditional grants to the CDF. We can also form an equalisation fund management committee, which will be all-inclusive in order for all of us to be included in it, so that we can manage the proposed Fund properly and make sure that all the people who have been marginalised in this country get development.

With those remarks, I beg to support and, again, thank the Mover, hon. Lelelit, for thinking about this proposal. I would like to urge every hon. Member to turn up during the Third Reading of this Bill, so that we can get the necessary threshold to push this amendment through.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you, hon. Limo. Yes, Member for Mbeere North.

Hon. Njagagua: Thank you, hon. Temporary Deputy Speaker, for giving me the chance to contribute to this constitutional amendment Bill. To begin with, I would like to air my support for this Bill. First of all, as we must all be aware, we want to amend Article 204 of the Constitution, which relates to matters of the Equalisation Fund.

As the previous contributors to this Bill said, the criteria being used by the Commission on Revenue Allocation (CRA) to disburse the Equalization Fund is not right. As other contributors have said, we need to re-look at the criteria for allocation of the Equalisation Fund. Many hon. Members may not know that Mbeere North is a marginalised area. The problem is that we are lumped together with Embu County. So, everybody takes it that the poverty index of Mbeere North is not high. The Mbeere people have been marginalised since time immemorial.

Kenyans celebrated 50 years of Independence with goodies having gone to their counties and constituencies. The Mbeere people were not part of that celebration. Why do I say so? We do not have proper roads in that area. There is no water. Hospitals are not fully equipped. We do not have schools. So, we are saying that we need to open up this

particular Article of the Constitution, so that all the areas that are marginalised can be included in it.

Secondly, I would like to support the proposal that the Equalisation Fund money be channelled to marginalised areas through the CDF model. I am opposed to having governors handling this money. I have information to the effect that about Kshs80 billion is lying idle at the Central Bank of Kenya (CBK). This is money which should have been collected by the governors for development. We all know that when they were elected, they came up with their own county integrated plans. The county integrated plans were designed to support and guide them on usage of funds in the counties. They are not following the county integrated plans.

So, money meant for the county governments is lying idle at the CBK. In effect, we are denying Kenyans those funds, which could go a long way in improving their living standards. Therefore, if we add them more money through the Equalisation Fund, it will just lie idle instead of being used. Therefore, I support that the money be channelled to the counties through the CDF model.

Thirdly, the time span of the Equalisation Fund is short. It is 20 years. This is a very short period of time in terms of planning. So, the sooner the money goes down to the counties, the sooner the marginalised counties will be brought at par with other counties.

Lastly, I must say that I feel really bad when I sit on the Jubilee side of this House and hear an hon. Member say that there is no government in parts of this country. We must thank the drafters of our Constitution because it gives such Member the freedom to even say what is unimaginable. In the olden days, such Member would have gone in for treason. The Member is lucky that these are not the KANU times. We cannot have a situation where an hon. Member stands in the Chamber and clearly states that there is no government in certain parts of this country.

Therefore, I support the Motion and propose that, at an opportune moment, we increase the funding from 0.5 per cent to even 5 per cent of the national revenue. Having said so, I wish to thank the hon. Member who has brought this proposal.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you, you can bring those amendments during the Committee Stage of the Bill.

Yes, Member for Wajir West.

Hon. A.O. Ahmed: Thank you, hon. Temporary Deputy Speaker. After waiting for so long, I finally got a chance.

I support the amendment Bill basically because it seeks to correct the injustices and marginalisation that has been happening to some parts of this country for a very long time. This Bill will ensure that basic services, especially health, water and education, are accessed by our women and children. For a very long time, the northern Kenya region and other marginalised regions of this country have been left behind. It was only after we had the CDF in place that we saw some light at the end of the tunnel.

Therefore, it is only appropriate that we have the Equalisation Fund going directly to the constituencies to ensure that it touches the hearts of the women and children of Kenya. At the moment, the CDF resources are not enough. Therefore, I appeal that the CDF allocation is also increased from 2.5 to 5 per cent of the national revenue. We should also have other devolved funds going directly to the constituencies. That is what is

meant by devolution. We need to devolve as much as possible, so that Kenyans on the ground can access essential services. What is visible in every part of this country today are projects that have been implemented through the CDF. That is why we are very passionate about this Bill. That is why we really thank the Mover for bringing the Bill to the House.

We, in the northern part of Kenya, have been having injustices for a very long time. This is now the time for us to catch up with the rest of Kenya through appropriate development. We should make sure that key projects are implemented in those parts of Kenya through the Equalisation Fund, the CDF and other funds that can be devolved to the constituencies. Alongside this, I appeal that we look at the funds going to the constituencies holistically with a view to coming up with an approach that will involve constituency MPs and County Women Representatives in planning for the monies. I would like the initiative to be a baby of all MPs.

With those remarks, I beg to support.

Hon. Lomwa: Thank you, hon. Temporary Deputy Speaker. I rise to support this Bill. During the campaign, I remember when we were pushing for the passage of the current Constitution, we promised people that the Equalization Fund is already in the Constitution and we were going to ensure that we would run at a speed that was likely to make us catch up with the other developed areas. We said that we were going to be very energized so that we also develop.

This Bill will enable the marginalized areas compete reasonably with the rest of Kenya and realize equality so that the marginalized areas become attractive just like the rest of Kenya.

The so-called low potential areas are the ones that we are targeting. Some of these low potential areas like Turkana, Wajir, Marsabit, Isiolo, Garissa and many others are becoming more productive now. If you look at Turkana and Wajir, you will find that we have oil in those counties. Oil exploration and a lot of mineral prospects are going on in many parts of these marginalized areas. This will contribute to the double digit economy that we are looking for in the Jubilee Manifesto.

Hon. Temporary Deputy Speaker, the priorities identified in this Constitution; in the management of this Fund, are good. The basic services and I believe they are not limited to water, roads, health and electricity alone, are important in the regions. Electricity which is targeted by this Fund will really help in the LAPSSET Project that is earmarked by the Jubilee Manifesto.

This Bill will improve the quality of service to the extent that we enjoy equitable services like most part of this country. Hon. Duale stated very clearly that the Constituencies Development Fund (CDF) is the smallest unit of devolution. For instance, if you fly, as he mentioned to Turkana, Samburu and other parts of northern Kenya, you will see desperation. Once you see desperation, you feel that you are in another world and this has made many of us feel isolated and hostile.

That is why you see the aspirations of the nation are not realized. That is why people are saying that they have no water, health facilities and roads. That is why you end up having a hostile---- Every time you feel that northern Kenya is hostile. It is not hostile because they intend to be hostile but it is hostile because they feel that they are marginalized or isolated from the rest of the country.

Hon. Temporary Deputy Speaker, I want to support this Bill because this will, just like the CDF, add value. Since there is goodwill from this Government and there are already existing structures in the CDF, the Equalization Fund should go through the constituencies.

Therefore, I support this Bill.

Hon. Ngikor: Thank you, hon. Temporary Deputy Speaker. I believe I was the first one in the Chamber this morning, but I thank you for giving me this chance. When we talk of marginalization, I am the person who is supposed to contribute to this Motion. I beg my colleagues to support it so that we can bring these areas at par with the other parts of the country. We are now nearing Vision 2030, but in areas like Turkana and northern Kenya, if we do not go the route of these amendments, those areas cannot talk about Vision 2030. I support this Bill, so that we can have an Equalization Fund to go to the smallest unit of devolution, namely, the constituencies, for the benefit of these areas. These areas should be like the rest of the country where we have roads, water, schools and health centres.

There is a Member who has said that the Government is not in some areas of this country. It is not about the Government not being there, but it is the services which the Government is supposed to deliver. I represent the Suguta Valley and it is shameful for somebody to say that there is a Government there. In Suguta Valley, there is not even an assistant chief, who represents the Government at that level. If they are not there, how can we say that the Government is there? So, the Member who said that the Government is not in Suguta Valley is right and the information is now coming from me, who represents that area.

We cannot talk of one Kenya when in some parts of this country there is no water, schools, hospitals or any representation of the Government on the ground. Time has come for us, Members of this House, to find out how we can bring our people together. Water, schools and health are everywhere, but not in these areas. We cannot talk about one Kenya when in some parts of this country, there is no water. For instance, in my area, there is not even a single security officer in some of these areas.

With regard to the structure that we should use to devolve these funds, I support the CDF way. We have tried Nairobi in the old Constitution and it failed. Nothing reached these areas. One month down the line, we have tried the county and everything is a mess. We have had the CDF for the last 11 years and we have seen some fruits out of it. Why can we not go that way? We should go that route of the CDF, so that Kenyans in these areas can get this money the same way they are getting the CDF. In my constituency, the only health centre that we have was constructed using CDF. The schools that we have and the only borehole are through the CDF.

I support.

Hon. Rotino: Thank you very much, hon. Temporary Deputy Speaker for giving me the opportunity to join my colleagues in supporting this very important amendment. Many of us have spoken about the Equalization Fund and we should understand what it means. It is meant to bring everybody at par.

Many of us who have spoken come from these areas. Those who have gone to those areas will understand what we mean by looking for these funds. This Fund will go a long way in uplifting the lives of the people in those areas to be at par with those of the

rest of Kenyans. Facilities and infrastructure in those areas are not there. Roads are not there. In my constituency, about 50 polling stations are unreachable by road.

You have to carry all the voting materials on your head because there are no infrastructural facilities. Imagine, 50 years after Independence that is happening! That is why we say that the Equalization Fund will go a long way in bringing those areas at par with other areas in the country.

Hon. Temporary Deputy Speaker, when we talk about human resource, right now in the counties when positions are advertised, we do not get people from the local areas to fill up the positions. They are not there. The Fund will go a long way in uplifting education standards in the areas. Children in secondary schools and universities will get sponsorship. Even the money that we get through Constituencies Development Fund (CDF) is not enough to pay school fees and sponsor children in colleges. If this Fund is given to the counties, we will be able to develop our human resource so that in five or ten years to come, we will be equipped to enable us compete with other areas.

The Chair can remember that in the Government of former President Daniel Moi, there was what we called quotas, which were used in education. A certain quota was given to those marginalized areas. The equalization system was being practised, but in different format. We are saying that this amendment will go a long way in formalizing these pockets of equalization system that was being practised in education, agriculture, livestock and various sectors. We want to make certain amendments during the Third Reading so that we increase this Fund from 0.5 per cent to 1.0 per cent because we know it will go a long way in helping these areas develop and move faster.

Hon. Temporary Deputy Speaker, we should ask for support from other colleagues who do not come from marginalized areas during the Third Reading. We should be able to marshal the two-thirds majority in order to move this Bill and pass it so that we assist our communities who suffer.

With those few remarks, I beg to support.

Hon. Saney: Thank you, hon. Temporary Deputy Speaker. I rise to support the Bill. After Independence, most of the technocrats felt that agriculture was the only worth investment in Kenya. That is why the White Highlands were getting funding and the Arid and Semi Arid Lands (ASALs) areas which comprised 80 per cent of the country were marginalized.

The mindset was that the return on investment was greater in the White Highlands and any investments in the ASAL areas were a waste of funds. Unfortunately, they did not realize then that Kenya would not achieve a double digit growth unless we had a synchronized development system of developing the White Highlands alongside their ASAL areas. They never realized that the ASAL areas have the potential; the oil and many other resources that are being exploited today. That was a misconception and I am sure the Constitution in Article 204 envisioned that there is need to establish the Equalization Fund to ameliorate the impact of Sessional Paper No.10 of 1965, which led to the systematic marginalization of areas for over three decades. This led to the dependence on relief food and gave rise to abject poverty and high illiteracy rates in Kenya's ASAL regions.

Hon. Temporary Deputy Speaker, the object of this amendment is not to discuss the importance of the Equalization Fund; which is stipulated in our Constitution, the

object is to discuss the mechanisms of disbursing the Fund. I feel that the removal of the Equalization Fund from the national Government to the constituency level where marginalized areas exist will help capture the object of the Equalization Fund.

The proposed amendments are good and are in consonance with the spirit of devolution of resources to the smallest unit. My only concern is on various proposals raised on establishment of other structures to manage this Fund. I believe CDF is just like the famed M-pesa which is attributed to Kenya, and the growth of Equity Bank. CDF is the model that is worth to emulate. We should use that structure to, at least, introduce the Equalization Fund.

With those few remarks, I support.

Thank you.

Hon. (Ms.) Otucho: Thank you, hon. Temporary Deputy Speaker. I really appreciate this opportunity because I have been waiting for it since we resumed this Second Session of the Eleventh Parliament. First and foremost, I must appreciate my friend hon. Lelelit for bringing this amendment. It is really important. We all agree that disbursing the money directly to the constituencies is the only sure way we shall be guaranteed of efficient and effective application of this Equalization Fund.

We all know that the Equalization Fund seeks to address or mitigate the challenges of inequities in the distribution of development across our country. It seeks to take services to the most undeveloped areas. I must also admit that most of the speakers who have contributed to this Bill have touched on areas like North Easter Province. Indeed, there are areas that are most undeveloped in this country.

I also want to point out that there are areas in this country that are marginalized. There are pockets in the 47 counties that are actually marginalized. Hon. Mbadi mentioned about his constituency not having a single road. I also come from a constituency called Teso South where there is no single tarmac. It is landlocked. Goods going to western Kenya end up in Kakamega, Bungoma or the other side of Busia County. We have the CRA which is mandated under Article 216(4) to determine, publish and regularly review the policy on which identification of marginalized areas is to be done. When the policy will be brought before this House, we need to ensure that all these areas that were not taken into consideration have to be taken into consideration and areas that are marginalized within the counties have to be recognized and also benefit. That is the only way that development in all those areas can be brought at par with the other areas. That way all the women, children and men of this nation will enjoy the benefits of services enjoyed by others in other countries.

Devolution is good – we support it. However, I would like to join the Member who mentioned here that we need structures and systems. What we need to do as a House is to empower all the other institutions that support and help us in playing oversight role. Devolution is good and by taking this money directly to the constituencies, we are actually devolving the money directly to the people who are at the very low level of administration in this Government.

Hon. Temporary Deputy Speaker, thank you for the opportunity and I support the Bill.

Hon. Angwenyi: Thank you, hon. Temporary Deputy Speaker for giving me a chance to contribute. I support this Bill. It is well intentioned. We must take care of all

Kenyans. We must pull up those areas which have been left behind. I have some parts of my constituency where our women folk have been given a *mzigo* by God and at the same time have to fetch water from below the hills. The hills are almost vertical and they carry that water on their heads while they carry the *mizigo* in front of them. It is really a very painful experience.

However, I would want to support this Motion. I have been to some areas of this country where it takes you ten hours to traverse a 35 kilometre road. For example, if you leave Laisamis for Loiyangalani in Samburu it will take you nine hours and yet it is only 25 kilometres long. I can take nine hours to and from my constituency which is Kitutu Chache and have the luxury of two hours for relaxation. So, we must look at these areas.

Actually, I would advise the Jubilee Government to look at these areas. If His Excellency President Uhuru Kenyatta and his Deputy Samoei Ruto were to launch a major road from Garissa to Mandera next week, Kenyans would look up to them as the people who are concerned about the far eastern areas of this country. If they would do a road from Laisamis to Loiyangalani to Lodwar, Kenyans would see them as people who are concerned about the welfare of all Kenyans. After that they can give me some 20 kilometres and give him some 30 kilometres.

Hon. Temporary Deputy Speaker, we must address the issue of water. As I told you, in my constituency, if a lady lives on Manga Hills she has to go and fetch water from a spring which is below it and Manga Hills is vertical. It is like climbing a mountain. If she is pregnant she has no choice but to carry the pregnancy and also the pot of water on her head. It is really terrible but it is worse where a lady must travel 50 kilometres to fetch water. So, we must address most of these issues.

We must align it to the Constituencies Development Fund (CDF). Let it be a model of distributing resources. I always *jipigia kifua* as one of the architects of the CDF. It was the brainchild of Eng. Karue and one, Jimmy Nuru Angwenyi. At that time, we did not know it would be very successful but I remember one remark that was made by the former President Kibaki as he was sitting out there; he said that he wished Kenyans had elected the two young men many years back because then it would have spurred Kenya's development faster than it did that time.

I also wish that we had people like Lelelit 20 years ago. If they would have brought this kind of Bill at that time to assist our vulnerable or marginalised areas, Kenya would have developed in unison.

I beg to support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you. Member for Bondo.

Hon. Ogolla: Thank you, hon. Temporary Deputy Speaker---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, I have 21 requests. Today is not the last day we are debating this amendment Bill. We will still debate it in the next sitting. So, be prepared. I can see requests from the Members for Igembe North, Shinyalu, Samburu, Kilome, Laikipia North, Mbita, Kajiado South, among others. The list is quite long.

Hon. Ogolla: Hon. Temporary Deputy Speaker, I want to make my contribution in a very brief way.

The spirit of the Bill is fine with me, in terms of its suggestion to the national Government, which is mandated under Article 204, to look into ways in which the Equalisation Fund can be spent in marginalised areas. I want to, quickly, bring to the attention of the House the fact that there are one or two things that we need to be very careful about as we look at this Bill. The first one is the issue of time at which the Bill has come to the House.

We need to remind ourselves that the Constitution allows a transition period of three years. It appears that we are in a hurry to effect many things within a short time. The law allows the national Government and the county governments to work in a manner that when a function is with the national Government but a county is well placed to carry out the particular function, the county government does it at the cost of the national Government. Some of these things are very clearly spelt out in the Constitution but we have not had the opportunity to see them work out. Consequently, we are, in every aspect, viewing the county governments as failures yet there is quite a period of time during which we need to experiment with some functions or even allow for purposes of transition.

Another thing is that a lot of us are speaking to this Bill, minus one bit of critical information. I want to believe that when the CRA gives us a list of which areas are regarded marginalised, many of us will change. As it is now, we might be relying on the definition of “marginalised areas” based on the Article. We are not very sure that the CRA will use that Article to come up with a list of the areas that we call “marginalised areas”. For example, since the beginning of the discussion on this Bill, there are some of us who have been trying to look at marginalisation on the basis of areas which have not had a chance of producing a president for this country before. There are those who are looking at marginalised areas as areas that are very far from Nairobi. There are those who are looking at marginalised areas as areas that are ASAL.

However, many times, if you look at, for example, poverty, the poverty index indicates things in a very different way from geography and other aspects of what we are looking at in this House. So, while talking about marginalisation, we should remember that some of hon. Members, including me, would not have been Members of this House; it is by tint of calculus that I am a Member of Parliament. If you look at it from the basis of where I come from, I am marginalised. My background, family and even how we are basically placed in that constituency, we are marginalised.

So, the whole issue of marginalisation will be a big problem, in terms of definition of “marginalisation” and the real indicators of marginalisation. Therefore, I would like to remind the House that the Constitution sets out this as a mandate of the national Government, but the Bill is reminding the national Government that the Fund can be utilised through the CDF arrangement. What is important to remember is that the function still remains that of the national Government. The national Government is supposed to expedite the necessary mechanisms of how this Fund should be operationalised. This Bill is just a good reminder but I want to believe that when the time comes, and we realise that this is something that could work with the counties, people might want to change in a manner similar to the ways we have done it before, in terms of allocation. Geography and population have been used as basis for disbursement. There is a whole set of factors that are being used for purposes of disbursing funds.

Thank you very much.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you.

Member for Igembe North, you have a minute or two and then you can continue in the next sitting.

Hon. M'uthari: Thank you, hon. Temporary Deputy Speaker. I rise to support this particular Bill. As I do so, I want to say that the idea of marginalisation is real. There are some parts of this country which do not appear as if they belong to Kenya. There are also other areas which may not be considered marginalised. We, in Igembe North, where I come from, we are considered to be Meru. However, if you go to that area, there is nothing that shows that we are part of Meru. Igembe North is a constituency without water. The land, which has been surveyed many years ago, has not been given to the people.

So, as we talk of marginalisation, we need to look at not only certain areas that have been specified as such but we also consider marginalised areas at the county and constituency levels. It is important that we do this on constituency by constituency basis, so that the Equalisation Fund can reach all those Kenyans who deserve it. It is important that we hold responsible the leaderships of the various marginalised parts of this country, like the upper eastern region, the upper Rift Valley region, and the north-eastern region. All those areas have had representation in Government. It is, therefore, important for leaders to also take responsibility for what they do as leaders. At the end of the day, it is easier to blame other people out there. What are we doing now that we are here? So, for me, it is important that the thinking of the Government and the entire planning process---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, I must appreciate the contributions and the intention to contribute by some of you. As I said, when debate on this Bill resumes, you will have opportunity to contribute. The following hon. Members wanted to contribute: Members for Shinyalu, Samburu, Baringo, Turbo, Isiolo, amongst others. However, this is a House of rules and procedures.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, it is now 12.30 p.m. Therefore, the House stands adjourned until this Afternoon, at 2.30 p.m.

The House rose at 12.30 p.m.