

**PARLIAMENT OF KENYA****THE NATIONAL ASSEMBLY****THE HANSARD**

Wednesday, 13<sup>th</sup> November 2019

The House met at 9.30 a.m.

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

**PRAYERS****QUORUM**

**Hon. Deputy Speaker:** Order, Hon. Members. I know some of our colleagues probably have been caught up in the very serious traffic jam because of the meeting that we have around. I, therefore, notice that we do not have the required quorum. I order the bell to be rung for 10 minutes.

*(The Quorum Bell was rung)*

Order, Hon. Members! Order! We now have the quorum. So, I order the Quorum Bell to stop ringing. Business will begin.

**ORDINARY QUESTIONS**

**Hon. Deputy Speaker:** Hon. Members, we will start with Ordinary Questions. To start us off is the Member for Baringo County, Hon. Gladwell Cheruiyot.

*Question No.486/2019*

**REINFORCEMENT OF MPECHOT WATER PAN**

**Hon. (Ms.) Gladwell Cheruiyot** (Baringo CWR, KANU): Hon. Deputy Speaker, I rise to ask the Cabinet Secretary for Water, Sanitation and Irrigation the following Question:

(i) What urgent measures will the Cabinet Secretary put in place to reinforce the walls of Mpechot Water Pan, which are on the verge of collapsing?

(ii) Considering the endangerment to the lives of over 2,000 residents of Sandai Location, Mochongoi Ward, Baringo Sub-County, living downstream, could the Cabinet Secretary indicate the urgent steps the Ministry is taking to avert this potential tragedy?

**Hon. Deputy Speaker:** The Question will be replied to before the Departmental Committee on Environment and Natural Resources.

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Next is the Member for Teso South, Hon. Geoffrey Omuse.

**Hon. Geoffrey Omuse** (Teso South, ODM): Thank you, Hon. Deputy Speaker. I cannot see the Question on the Order Paper.

**Hon. Deputy Speaker:** Which Order Paper do you have? I can see it.

**Hon. Geoffrey Omuse** (Teso South, ODM): I have logged in, but I cannot see it.

**Hon. Deputy Speaker:** Maybe you can get the manual one. When technology fails, we normally go manual.

*Question No.487/2019*

REHABILITATION OF OPEN QUARRIES ALONG BUSIA-MALABA ROAD

**Hon. Geoffrey Omuse** (Teso South, ODM): Thank you, Hon. Deputy Speaker. I rise to ask the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development the following Question:

(i) What steps is the Ministry taking to ensure that the open quarries and excavations dug out during the construction of the Busia – Malaba Road are rehabilitated or filled?

(ii) What measures is the Ministry undertaking to compel the contractors to fill-up or rehabilitate such quarries or excavations during road constructions to avoid further loss of lives?

(iii) Could the Cabinet Secretary undertake to compensate the family of the late Master Felix Oguru, a class seven pupil at Angoram Primary School, who drowned on 31<sup>st</sup> October 2019 in one of the quarries along the Busia–Malaba Road?

**Hon. Deputy Speaker:** That one will be replied to before the Departmental Committee on Transport, Public Works and Housing.

The last Question is by the Member for Kajiado Central, Hon. Memusi Kanchory.

*Question No.488/2019*

VALUATION OF LAND ACQUIRED FOR CONSTRUCTION OF ISINYA-NAMANGA TRANSMISSION LINE

**Hon. Memusi ole Kanchory** (Kajiado Central, ODM): Hon. Deputy Speaker, I rise to ask the Cabinet Secretary for Energy the following Question:

(i) What is the status of compensation of persons affected by the ongoing construction of the Isinya-Namanga Transmission Line in Kajiado County?

(ii) Could the Cabinet Secretary confirm whether the County Government of Kajiado was involved in the land valuation?

(iii) Could the Cabinet Secretary also explain why there are huge disparities in the land valuations and whether the National Land Commission availed a valuation report to the Ministry on the land acquired for the transmission line?

**Hon. Deputy Speaker:** That Question will be replied to before the Departmental Committee on Energy. That marks the end of Question Time.

Next Order.

**MOTION****GOVERNMENT FACILITATION TO KENYA NATIONAL FARMERS' FEDERATION ON DATABASE MANAGEMENT**

THAT, aware that farmers in Kenya are least organised into associations, following the collapse of the agricultural cooperatives; further aware that the Crops Act, 2013 provides for registration of farmers so as to establish who they are and what they produce; noting that Government's efforts to establish farmers' organisations have ended up delivering short-lived and unsustainable initiative-based groups which fizzle out soon after their formation; further noting that the best way to organise farmers is through their organisations; appreciating that the best suited organisation to undertake farmers' registration is the Kenya National Farmers' Federation which has both experience and capacity; further noting that through organised farmers, farming will be more beneficial in terms of volumes, lowered cost of production and improving organised raw material supply to industry; realising that organising farmers into agri-business entities is a costly undertaking which calls for Government support and acknowledging that through organised production systems, the country will achieve the Big Four Agenda faster and also create more and better jobs in the agricultural value chains; this House urges the Government to facilitate and support the Kenya National Farmers' Federation to mobilise and organise the registration of farmers into preferred entities and manage national farmers' database for use in engagements and sustainable management of the various agricultural product value chains.

*(Hon. John Mutunga on 30.10.2019)*

*(Resumption of Debate interrupted on 6.11.2019)*

**Hon. Deputy Speaker:** On this particular one, we have a balance of 54 minutes. There was no Member on the Floor when we finalised it in the previous session. We will proceed and give an opportunity to Members who are available to contribute. I will follow the order. I see Hon. Mwirigi Paul is on top of the list. Do you want to speak to this one?

**Hon. John Paul Mwirigi** (Igembe South, Independent): I contributed, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Unfortunately, somebody gave you the microphone and you are top on the list. I probably think you wanted to speak to the next one. It will be important for you to position yourself because you were on top, but you have now been removed.

Let me ask Hon. Mogaka Kemosi. Let us have Hon. Jacqueline Oduol. Hon. Kemosi, do you want to speak to it? I will give you an opportunity.

**Hon. Vincent Kemosi** (West Mugirango, FORD-K): Thank you, Hon. Deputy Speaker for giving me this opportunity to contribute to the Motion on registration of farmers and formation of agri-business entities for improved benefits and sustainable food and nutritional security.

I am aware that agricultural cooperatives no longer exist in this country. In previous years, agricultural cooperatives played a very key role in terms of trade by linking farmers with businessmen. Gone are the days when we had cooperative societies marketing various crops like tea, pyrethrum and also marketing milk. Currently, we do not have cooperative societies. In the absence of cooperatives, a vacuum has been created and farmers are unable to get direct market for their produce. They are not linked directly with businessmen. I appreciate the Mover of this Motion for recognising this. I also support that it is high time the various organisations which have been created to link farmers and businessmen are given support, so that farmers can access markets for their produce. This will go a long way to improve their farming in terms of getting more money. It will also go a long way in improving their economic status.

I understand the essence of the Kenya National Farmers' Federation (KENAFF). I also support the Mover that it is high time we supported the federation and the various organisations, so that they can assist farmers in marketing their produce.

With those few remarks, I support the Motion.

**Hon. Deputy Speaker:** Next is Hon. Robert Pukose. You have spoken to this. Hon. Murugara, have you spoken to it?

**Hon. George Gitonga** (Tharaka, DP): Hon. Deputy Speaker, I have not. I have a contribution to make.

Thank you, Hon. Deputy Speaker. I support the Motion that we should establish agribusiness centres and register them with the proposed organization. Agriculture is the backbone of our economy and it has been for a long time. It is, therefore, very important for us to take care of our farmers such that when we go into farming, we know for sure we are venturing into business and this will be of benefit to the farmers as business people.

Agriculture is basically regulated by cooperatives in the country. Most of them have not been successful. In fact, the history and story of cooperative societies in the country has been that most of them have been mismanaged. As a result of this, farmers lose their money, produce and income. This is as a result of mismanagement and corruption. If we get an agri-business centre under one society, cooperative or entity that take care of farmers, this would be advantageous. We do not want to lose focus on the Big Four Agenda in which food security is one of the key factors. The country must be self-sustaining in terms of food, agricultural produce and marketing.

It is also important to note that we have crops which are scheduled under the Crops Act and there are others that constantly receive subsidies from the Government. There are crops that are not scheduled, but they are very important to this country both as cash crops and food crops. I have in mind the farming business in my constituency which I must speak about through this Motion. We have a crop known as green grams, which is widely grown in Tharaka-Nithi County, Kitui County and Makueni County, a food crop which is consumed countrywide. Unfortunately, this is not a scheduled crop and it does not enjoy subsidies. The net effect is that its trade fluctuates without any manner of control. If we had an entity to control such agri-business, it would help. We have rains which we predict to be sufficient in this season and the crop will be bumper in the constituency and elsewhere where it is grown. When it is a bumper harvest, a glut sets in as a result of which prices become very low. A month ago, this crop was almost unaffordable in the country even in food stores. This is the reason we feel that we need an entity that will take care of our crops, so that from time to time, we can have prices that are beneficial to the farmers and the businesspeople. That way, everyone will find agriculture to be a

productive industry that we must all engage in and invest like many other countries which rely on agriculture and have moved miles ahead in development.

With those remarks, I support the Motion and submit that it is timely and we should pass it. Thank you.

**Hon. Deputy Speaker:** Very well. Hon. Omboko Milemba, do you want to contribute to this Motion?

**Hon. Omboko Milemba** (Emuhaya, ANC): No.

**Hon. Deputy Speaker:** Okay. Hon. ole Sankok.

**Hon. David ole Sankok** (Nominated, JP): Thank you very much, Hon. Deputy Speaker for giving me this opportunity to contribute.

**Hon. Deputy Speaker:** Hon. Oundo, can you kindly put back your card because there is an issue here? Proceed, Hon. Sankok.

**Hon. David ole Sankok** (Nominated, JP): Thank you very much, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Will you contribute to this Motion, Hon. Oundo?

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Yes.

**Hon. Deputy Speaker:** Immediately after Hon. Sankok, you will contribute because I have already pressed your card. Proceed, Hon. Sankok.

**Hon. David ole Sankok** (Nominated, JP): Thank you very much, Hon. Deputy Speaker. You have eaten much of my time.

**Hon. Deputy Speaker:** Hon. Sankok, is it possible for me to eat time, honestly? I know I am fairly hungry this morning, but time will not be very sufficient to fill my stomach today. However, proceed. I will give you extra 30 seconds, if you require them.

**Hon. David ole Sankok** (Nominated, JP): Hon. Deputy Speaker, it was a mistake. Despite your appetite, I am quite sure you cannot eat time.

It is only in this country called Kenya where when we give a cow water and it adds value to it through the digestive system and other internal machineries, when it produces milk, it is cheaper than ordinary water. A litre of milk in this country costs between Kshs17 and Kshs22, but a litre of water ranges from Kshs100 to Kshs200, which is pathetic. That is why we are talking about cooperative societies which are supposed to be like the civil societies to fight for the rights of farmers and advocate for proper market for our produce. The backbone of Kenyan economy was agriculture. Nowadays, agriculture is the tail of the Kenyan economy because we have concentrated our effort towards other legislative frameworks. We have forgotten our economic backbone where 90 per cent of our population depends on. Up to 99 per cent of our population, at one time or the other, has been farmers. About 80 per cent of Members in this House, apart from being professionals in their respective fields, are farmers back at home. They need representation through cooperative societies. What happened to them? There is corruption within them because we did not legislate on them. A few members take advantage of the majority of the farmers who are mostly illiterate and steal from their sweat. That is why most cooperative societies have failed in this country. The rich in this country take advantage of the poor farmers back in the villages. That is why there is monopoly in the milk market, sale of tea and coffee. We are killing sugarcane factories and sugarcane farming so that we, as the elite of this country, can import sugar and make a lot of profits at the expense of our poor farmers.

We overtax farm inputs which makes agricultural production and farm produce very expensive that we cannot sell within our country, let alone outside our country. All these can be advocated by cooperative societies. That is why I support the Motion. We can revamp

cooperative societies which will be the eye of the poor farmer. These are farmers who come together and join hands. They know their weaknesses and strengths. They will advocate for the farm produce as well as look for markets outside the country. When we went to Qatar recently, we found a chamber of commerce which has a department that deals with agricultural produce, yet it is in a desert. Because they recently imported cows and they are producing some milk, they have already anticipated the possibility of exporting farm produce. They have not satisfied their market. It is pathetic that our country imports farm produce while we are not in the middle of a desert like Qatar, Libya and Israel. We import farm produce in a country that is blessed by the Almighty God with rainfall, climatic conditions that favour farming and regions that favour all types of crops. We have highlands, savanna, lowlands and semi-arid lands. So, all types of agriculture can be done in this country.

One of the most important pillars of our Big Four Agenda is food security. We cannot have food security when we are importing sugar while we have a sugar belt that is not equal to any in the whole of Africa. We cannot have food security when we are importing maize. We import rice yet our rich farmers live in poverty. We have land that favours all types of agricultural products. That is why I support the Motion. Let this House and the Committee on Implementation, led by Hon. Kenta, make sure that this Motion is passed and implemented to save our peasant farmers. This is to save our farmers from running out of business, for example, by not having the cost of milk lower than the cost of water. Ordinary water or, say, river water, is more expensive than milk in Kenya.

Thank you very much, Hon. Deputy Speaker for that opportunity. I support 100 per cent.

**Hon. Deputy Speaker:** Hon. Oundo Ojiambo, Member for Funyula.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Deputy Speaker for the opportunity to contribute. I support the Motion by my colleague, Hon. (Dr.) John Mutunga.

It is obvious that the mainstay of the Kenyan economy is agriculture. Even though it has been shrinking, it still accounts for over 75 per cent of the Gross Domestic Product of this country. However, the contribution of the agriculture sector could have been much bigger if we had organised our farmers in a system that allows them to maximise production, or a system that allows them to get the highest returns from investment in the agriculture sector. One of the greatest challenges of agricultural production in this country has been the management and organisation of farmers. Ours are small-scale farmers. They are peasants and so they cannot afford all farm inputs. For them to successfully venture into agricultural business, they need adequate support. That adequate support can only come their way in form of organised entities. That way, they will be in a position to access inputs, extension services and even market their produce locally and internationally.

We used to have very strong farmers' associations and very strong co-operative societies that generally supported farmers. The rain started beating us in the late or early 1990s to the extent that the so-called farmers' associations and co-operative societies are now generally a pale shadow of themselves. Consequently, most farmers are struggling to get farm inputs. Farmers are struggling to get technology transfer. For that reason, production has continuously diminished over the years. I have attended very many forums where the current Principal Secretary for Agriculture, Prof. Boga, has been very vocal that unless we improve our productivity, we are wasting time in the agriculture sector. Food security is one of the key pillars in the Big Four Agenda. Unless we invest in a system that organises farmers to make sure that they undertake the right processes, for example, in crop husbandry, we are not going anywhere. The Big Four

Agenda also calls for manufacturing. Kenya, being an agricultural economy, one of the greatest raw products could be agricultural.

So, it is my goal to support the Motion. However, we need to address a few issues. One, the KENAFF needs to come out and popularise itself. From where I stand, my people in Funyula Constituency do not know it or have no strong association with it. They need to come out and undertake adequate capacity building to enable members understand the importance of joining the association. They need to understand the benefits of organising themselves in a manner that will help them reap the benefits of agricultural production.

As I stand here, my constituency is earmarked as one of the enablers of the textile industry through growing of cotton. However, when we went through the constituency together with the Managing Director of Rift Valley Textile Limited (RIVATEX) and the entire team of Food and Agriculture Organization (FAO), a few issues came out very clearly. One, the umbrella union that used to support them many years ago has been bedeviled by management challenges and corruption. Consequently, they are unable to market their products. They are unable to look for the most profitable market in this country. Therefore, as we look at this, we ask the Mover of the Motion to go all the way and bring relevant amendments to the Co-operatives Act and the Crops Act, so that it becomes mandatory for all farmers who wish to benefit from various subsidies that the Government gives to belong to some organised groups. It will enable them to contribute substantially to the management of these unions.

With those few remarks, I support the Motion. I thank you for the opportunity to contribute to it.

**Hon. Deputy Speaker:** Hon. Yussuf Haji, Member for Mandera West.

**Hon. Yussuf Adan** (Mandera West, EFP): Thank you Hon. Deputy Speaker for giving me this opportunity. I stand to support this Motion. It is very timely.

As we know, registration of farmers is part of planning. If we fail to plan, we plan to fail. Registering our farmers and knowing which farmer is where and growing which crops or keeping what type of animals, can help us in the budget processes of the Ministry of Agriculture, Water and Irrigation and other entities that deal with food security. It is very important. If we do not know the number of farmers that we have, the types of crops or animals they keep, we will not be able to plan and give the necessary support that is required.

We used to have very organised farming systems. Because of corruption and mismanagement, all those are gone. The co-operatives that we used to have and the few that still exist do so merely by name. We used to have the Kenya Farmers' Association (KFA) and the Kenya Grain Growers Cooperation Union (KGGCU), which are no longer there. We used to have the livestock marketing councils all over the country. They are still there, but they are not getting proper support because their members are not effectively registered. We need to register all the farmers, be they high commercial farmers or subsistence farmers. That will be proper planning and that will also give farmers proper markets. They can negotiate for the marketing of their products. They can negotiate for good prices if they are registered and if they are in groups, unions or co-operatives as opposed to operating as individuals.

What is happening is that farmers produce the same type of farm produce and they all want to sell the same produce to the market. They compete among themselves and they end up selling their products at a lower cost, below their cost of production. They end up making a loss. If that continues, farmers will continue being in abject poverty yet they are the ones who feed all of us. We cannot do without farmers. You wake up in the morning, you need a cup of tea, bread

and an egg. All those items are produced by farmers. If the same farmers are not organised and are unable to produce and make money out of their sweat, then we are robbing and killing them. We who are not practising farming, but only rely on what has been farmed, will end up getting nothing. That may make the country to collapse. The highest insecurity you can have in a country is when there is no food security. Lack of food security is more insecure than *Al-Shabaab*. When there is no food, masses and communities are hungry. Farmers are not able to produce because of incurring losses season after season. They are not able to buy farm inputs and have no direction because they have nothing to guide them. Also, farmers are not registered and, therefore, ultimately, there will be food insecurity. As I said, food insecurity is more dangerous than *Al-Shabaab* and other forms of insecurity that we are currently facing and complaining about.

This Motion is timely. I congratulate my colleague, Dr. Mutunga, who brought it. We should support it and make sure that it is passed. A Bill should be made out of it, passed and then the Committee on Implementation takes it up. Food security is important. The agriculture sector employs 75 per cent of the employment force in this county. It is an important sector. It is the backbone of our economy hence we should support it.

With those few remarks, I support this Motion. Thank you.

**Hon. Deputy Speaker:** I am not able to see the Members who have spoken and those who have not. Hon. Kutuny.

**Hon. Joshua Kutuny** (Cherangany, JP): Asante sana, Mhe. Naibu Spika. Ijapokuwa ninaunga mkono Hoja hii, nina masikitiko kwamba ni Mbunge aliyebileta tuijadili. Tunajadili Hoja ambayo tutaizungumzia hapa lakini kutekelezwa kwake kutafanya tubaki na maruweruwe ya mazungumzo yetu hapa. Ninapotafakari na kufikiria, ninarudishwa nyuma na taswira ya mwaka wa 2013 tukiomba kura ya kuiandaa Serikali hii. Tulitoa ahadi kwa Wakenya kwamba kila mkulima atasajiliwa iwe ni mkulima wa mahindi, ngano, maziwa, au ng'ombe. Sasa ni miaka saba na hakuna mkulima aliyesajiliwa. Waswahili wanasema: "Heri nusu shari kuliko shari kamili". Hii Hoja inatupa nafasi ya kutathmini, kuzungumzia matatizo, manufaa ya wakulima na wakulima kusajiliwa.

Serikali huagiza pemebejeo za ukulima kama vile mbolea na mbegu za aina tofauti. Lakini, Serikali huziagiza ikizingatia nini au idadi ipi ya wakulima ikiwa sajili haipo? Serikali itajuaje wakulima wa mahindi ni wangapi na matarajio ya gunia za mahindi zitakazovunwa ni ngapi? Kwa sababu Serikali haina idadi kamili, isemapo kuna upungufu wa chakula katika taifa la Kenya, hapo ndipo mwanya wa matapeli hupatikana. Serikali husema tuagize vyakula ilihali taifa inaweza kujilisha. Ninashukuru na ninaweza kuripoti kwa furaha kwamba tulipinga uagizaji wa mahindi kutoka nje. Ijapokuwa mpaka sasa Serikali haijatangaza bei ya mahindi, tuna bei nadhifu katika soko. Wakulima kwa sasa wanafurahia. Vile vile, tunatarajia Serikali itangaze bei ya mahindi kwa sasa. Wakulima wanaendelea na uvunaji lakini hali ya anga si nzuri. Hi ndio sababu tunasikia mazungumzo ya *aflatoxin*. Baada ya vyakula kuvunwa, mbinu za kuzihifadhi zimekuwa changamoto katika taifa la Kenya.

Ninapochangia Hoja hii ya kuorodhesha wakulima, niliona mojawapo ya vyombo vya habari ikiendesha kipindi kilichoeleza kuwa vyakula tunavyotumia kwa sasa ni hatari. Nakubaliana na kipindi hicho. Leo vyombo vya habari vinatueleza kuwa mahindi tunayotumia ina sumu, wali tunaoula Kenya una sumu na maziwa wanayotumia Wakenya ina sumu. Ni kipi kingine bora au kilichosalia kuwa safi nchini Kenya? Suluhu ni nini? Tunaelezwa kuwa vyakula vyote katika taifa la Kenya vina hatari, lakini hawatupei suluhu. Taarifa hii ndiyo

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inayoendelezwa. Tunataka Serikali itoe taarifa kuhusu hili swala linalozungumziwa katika vyombo vya habari kuwa vyakula vyote vitumiwavyo na Wakenya vina makali ya sumu. Ni hatari kwa kutotoa msimamo wake juu ya swala hili.

Asilimia 95 ya Wakenya wanatumia mahindi na maziwa. Wanakula sima na kukunywa chai ya maziwa. Hivi ndivyo vyakula vinavyotumiwa na watoto wote wachanga wanaozaliwa. Tunaruhusu taarifa za vitisho kuhusu vyakula vya Kenya. Katika soko la kimataifa, watu wanashuku vyakula tunavyotumia. Hawawezi kuviagiza na hatuwezi kuviuza nje ya nchi. Mbona Serikali inaruhusu habari hizo ziendelee kuzungumzwa badala ya kutupa suluhu ya kudumu?

Wakulima wa majani chai wanalalamika. Kama kungekuwa na idadi kamili ya wakulima, ninaamini Kenya Tea Development Agency (KTDA) wana nafasi bora na ratiba ya kujua ni wakulima wangapi wako nao. Leo tunaangalia kwa huzuni wakulima waking'oa majani chai. Nchi itaelekea wapi? Uti wa mgongo wa taifa la Kenya ni kilimo lakini kujitolea kwa Serikali kumsaidia mkulima ni duni. Haijalishi wanajenga barabara kiwango gani wakati mkulima anahangaika. Watu hawatakula barabara. Watahitaji dawa nyingi. Hata tukifanya nini, tusipomsaidia mkulima itakuwa ni matatizo tunaingiza katika taifa letu. Mkulima akilima na kuuza mazao yake, akipewa nafasi atampeleka mtoto wake shuleni, atatafuta matibabu bora, atajiendeleza kimaisha na atajenga nyumba safi. Kwa hivyo, ninapounga Hoja hii mkono, ninataka kuisuta Serikali kwamba wamezipa kisogo zile ahadi walizowapatia Wakenya. Na hata ni juzi tu. Wakulima walikuwa wameelezwa kwamba utakapoingia kwenye shamba, kabla hujalima kile ambacho utalima, utakuwa umetangaziwa bei ndio ujue utafanya biashara ya kilimo ama utafanya biashara ya kujinufaisha na kujitosheleza. Lakini yote hayakupewa kipaumbele. Kwa hivyo, mimi ninaungana na wenzangu hapa kusema kwamba swala hili ni muhimu, lakini ni lazima tuibadilishe ikuwe sheria ndio ikuwe ni lazima mkulima asajiliwe.

Asante. Nashukuru.

**Hon. Deputy Speaker:** Hon. Kimilu Joshua, Member for Kaiti.

**Hon. Joshua Kivinda** (Kaiti, WDM-P): Thank you, Hon. Deputy Speaker, for giving me this opportunity to contribute to this important Motion. I want to thank the Member who came up with this Motion, because it touches on the lives of Kenyans and our people. As we talk of registration of farmers, we also need to think of how we can improve our products. Our country is well known for agriculture. We also get our income through agriculture. So, registration of farmers will help our people because they will have the opportunity to get trainings from stakeholders and the Government. My people will benefit out of this.

When we talk of food security, we cannot leave behind sustainable development. When we are talking of food security, as we improve our products, we are supporting the Big Four Agenda. This will also improve productivity in our country and we will have sustainable production. Also, marketing. When our farmers come together in Savings and Credit Cooperative Societies (SACCOs), this will attract foreigners to invest in farming and support our farmers. We also need to educate and sensitise our farmers about farming. Through registration and bringing our farmers together, this will encourage our farmers and will give opportunity to agencies, Non-governmental organizations and the Government to train our farmers.

Everything which has an advantage has a disadvantage. We will face some challenges when we try to implement this. We know some cultures will clash with this project. I am aware that the Member who came up with this Motion has done a good appraisal. We want the project to be viable. I am happy because I know that although there will be some challenges with the

culture of our communities who believe that they concentrate on their own farms and they need to do their own things, through sensitisation and Government support, all the farmers will come together and we can have groups which will improve their production.

What I can add on this is that we need the provisions of this Motion to be implemented. Most of the time, we try to make good laws, but implementation becomes a problem. We need the Government to take the initiative and implement this because there is a need and an outcry from our people. Yesterday, I was in my constituency of Kaiti, and I got farmers crying because there is a worm which is destroying their farms. The Government needs to do something. Unless something is done, we will not get a good yield because of this worm. So, we urge the Government to chip in and support the farmers.

Thank you, Hon. Deputy Speaker, for the chance. I support the Motion.

**Hon. Deputy Speaker:** Let us have Hon. Kabinga, Member for Mwea. And you have a few minutes only because in the next four minutes, the Mover will be called to reply.

**Hon. Josphat Kabinga** (Mwea, JP): Thank you, Hon. Deputy Speaker. I hope the four minutes will be enough. I want to support the Motion by my brother, Dr. Mutunga. It is very timely. It is coming at a time when all our farmers are crying. All the people who depend on farming in this country are having no coin in their pockets. When you trace the history of this country, you realise that those days when we had focused on agriculture, when Kenya was known for its export of agricultural products, Kenya was at peace and Kenyans were all having something to enjoy. But today, we have tea farmers, coffee farmers, milk farmers, livestock farmers and rich farmers in Mwea who produce the most famous Pishori Rice, crying because there is no focus especially from the Government. It is for that reason that I support this Motion. We need to support the Kenya National Farmers' Federation, so that it can be strong enough to be felt on the ground and to organise farmers from different sectors to come up with cooperative societies that will maintain a database to be shared with the Government, so that it can plan for its support to the agriculture sector. Without a well-maintained database and mapping of farmers in this country, the Government will have haphazard importation of items like fertiliser, which might be brought in when farmers probably do not need it or when it is late.

By maintaining a database of farmers and mapping the farmers, the Government will be able to prepare for markets. Today, farmers in Mwea are harvesting their rice. As they are doing so, nobody is bothered about the market. They are, therefore, at the hands of brokers who come from all walks of life in Kenya. They buy the rice at throw-away prices, keep it and make a lot of money after a small period of time. It is high time we focused on our farmers. It is high time we got timely as a country, so that even as we produce, somebody somewhere is ahead of time. Somebody somewhere is looking for markets for the produce.

I am also aware that even as the farmers are struggling, we are having no support in any of the areas. The same brokers who are buying from our farmers, and this is very serious and pathetic, have weighing machines that are not calibrated by the Government agencies.

Hon. Deputy Speaker, they walk in with machines, buy rice and nobody is bothered to know whether the machines are calibrated or not. A 100-kilogramme bag of rice is bought as if it is a 60-kilogramme bag of rice despite the low prices the farmers are offered by the brokers. I know I do not have time. I wish I had time to talk more on this, but I hope our Government will go back to the days when we focused on agriculture. That is what Kenya is known for. We are trying to venture into industries where we do not have industrial inputs and have lost in what we

knew best. We have lost in what could have helped this country. It is high time we got back to agriculture.

**Hon. Deputy Speaker:** Your time is over. Members, fortunately, we will be asking the Mover to reply because time is over. Hon. (Dr.) Mutunga, you have a right to donate time noting that debate was not disrupted. You have the freedom if you wish.

**Hon. John Mutunga** (Tigania West, JP): Hon. Deputy Speaker, thank you very much for the opportunity to reply. There is demand by Hon. Members for donation of one or two minutes. I can give my colleagues a minute each.

**Hon. Deputy Speaker:** Okay, you have 10 minutes, so you can do your mathematics and arithmetic out of that.

**Hon. John Mutunga** (Tigania West, JP): Hon. Deputy Speaker, I can donate five minutes, one minute each to the five Hon. Members.

**Hon. Deputy Speaker:** I am not going to accept that Hon. Mutunga. You must mention the people you are donating to by names. If you have a problem with the names, I will allow two Hon. Members.

**Hon. John Mutunga** (Tigania West, JP): Okay, Hon. Deputy Speaker. I donate one minute to Hon. Iringo, Hon. (Prof.) Ogutu, Hon. (Dr.) Wamalwa and one Minute to Hon. (Ms.) Nasri.

**Hon. Deputy Speaker:** Okay, those are four. We will wait if you have any other. So, let us start with Hon. Iringo.

**Hon. Kubai Iringo** (Igembe Central, JP): Thank you, Hon. Deputy Speaker. I wish to thank my brother, Hon. Mutunga, for bringing this Motion. I support it. Agriculture is the backbone of our economy. However, it is the industry which has never been exploited. It has been left to unscrupulous businessmen and farmers who do not have any know-how and are ignorant of what they should gain from farming. Therefore, having the agribusiness bodies will harness all the agricultural products in this country and put them into commercial use. In as much as we support subsistence farming, we also need to put it to commercial use, so that farmers can benefit from their farming. As we talk, farm products are the worst paid for and yet farm inputs are very expensive.

Middlemen and the Government have let our farmers down and we should, at least, check this vice through this process. I thank you.

**Hon. Deputy Speaker:** Hon. (Prof.) Ogutu.

**Hon. (Prof.) Zadoc Ogutu** (Bomachoge Borabu, Independent): Thank you, Hon. Deputy Speaker. The Motion is about planning for this nation if agriculture is to continue serving as a basis for the growth of this nation. I think it is important for us as a nation to understand what happens in this country in terms of agriculture, who is involved in what, the predicaments and find out the way to support the farmers so as to contribute substantively and sustainably to the economic growth of this country.

So, when we talked about agribusiness, engaging farmers to contribute to sustainable manufacturing and food production, I think this is the right direction. I support the Motion and say that it is very important at this time.

**Hon. Deputy Speaker:** Let us have Hon. (Dr.) Wamalwa.

**Hon. (Dr.) Chris Wamalwa** (Kimini, FORD-K): Thank you very much.

First, I congratulate Hon. (Dr.) Mutunga. I remember I was to second this Motion, but unfortunately, I was held up. My humble request is that you move with speed and form a Bill. A

good Motion such as this becomes difficult for purposes of implementation. Formation of SACCOs helps organisations to enjoy economies of scale and reduce operational costs. In this country, the dairy industry is suffering because of two monopolies, namely, Brookside and the New Kenya Cooperative Creameries (KCC) who are buying milk at a throw away price. The price of a litre of water is more expensive than the price of a litre of milk. So, if we have SACCOs, we can market our produce and do value addition, so that we can ensure value addition for our farmers. This will improve their welfare. I thank you and congratulate the Member.

**Hon. Deputy Speaker:** Lastly, let us have Hon. Nasri.

**Hon. (Ms.) Nasri Ibrahim** (Nominated, FORD-K): Thank you, Hon. Deputy Speaker for giving me this opportunity. Registration of farmers is an exercise that will uplift the farming community to a large extent such that it will provide a pool of information of farmers' demography, age and categories of enterprises thereby ensuring a fair criterion for future encounters such as distribution of donated materials.

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

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

This will ensure there is prospective project handling and compensations where there are unforeseen losses. Farmers have been exploited and it is necessary to organise them on a common ground in order to increase their bargaining power.

I, therefore, support the Motion for the Government to support the Kenya National Farmers' Federation in registration of farmers.

Thank you. I support

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Very well. We shall now have the Mover to reply.

**Hon. John Mutunga** (Tigania West, JP): Thank you, Hon. Temporary Deputy Speaker for the opportunity to reply to the Motion. I take this opportunity to thank my colleagues for supporting the Motion vehemently.

Hon. Temporary Deputy Speaker, every speaker had something important to add. That shows how important agriculture is and how important organising farmers is. Important highlights have come out of this Motion. One is that when we register farmers, we shall definitely know who they are, what they produce, where they produce it and we shall name farmers by the enterprises they produce. That will help us zone the country into clusters of production segments and that will help us to even industrialise faster.

There will also be a likelihood of forming farmers groups which are agribusiness groups. It is, therefore, possible for us to move from production to agribusiness because you cannot go to agribusiness without organising farmers. Since they are small and, therefore, the scale is small, the economies of scale can only be enjoyed by bringing them together.

Hon. Temporary Deputy Speaker, there is the possibility for specialisation that has come out very strongly. We are able to zone out the areas and know that this agroecology can do best in the production of cabbages or mangoes. We can specialise, link up our research carefully with production systems and produce better for the country. There will also be a possibility for us to

reinvent the former cooperatives that collapsed sometimes back because of the issues that have been alluded to by every speaker.

Of most importance is the fact that we have a strategy called the Agricultural Sector Transformation and Growth Strategy, which presupposes that farmers will be clustered into thousands. This strategy cannot be implemented without a supportive legislation. So, in this particular respect, I thank the Members who have come out very strongly to say that we should move quickly into developing a Bill which will, therefore, guide the industry or guide the sector into organising the entire sector to have farmers registered in terms of what they produce and where they produce it.

The failed performance of cooperatives is one classical example that we need to remember as we move into this direction. We need to ask ourselves why the cooperative societies failed. They failed because of mismanagement and the fact that farmers were not given the full mandate to manage the cooperatives. That is why Members have clearly alluded to the fact that we should allow an independent entity to register farmers and organise them. If we do that, we will not have the hand of the Government in this process. That is because past experiences through the co-operative movement have been very painful and we do not want to go in that direction. It is also a planning tool to have farmers registered and organised. Once they are registered, we will know them even if it means targeting them through packages for capacity building, farming inputs or...

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Mutunga, you were supposed to reply.

**Hon. John Mutunga** (Tigania West, JP): Hon. Temporary Deputy Speaker, I need one minute to reply.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): No! I will not extend your time because you donated it. So, please, reply.

**Hon. John Mutunga** (Tigania West, JP): Hon. Temporary Deputy Speaker, a lot has been said about this Motion. One key thing I want to bring to the Floor is that I will bring a Bill. I call upon Members to support me in making the Bill.

Hon. Temporary Deputy Speaker, I beg to reply.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, I will pend putting the Question on this Motion to subsequent time.

Next Order!

*(Putting of the Question deferred)*

## BILL

### *Second Reading*

#### THE EQUALISATION FUND BILL

**Hon. Kassait Kamket** (Tiaty, KANU): Thank you, very much, Hon. Temporary Deputy Speaker, for giving me this great opportunity.

I beg to move that the Equalization Fund Bill (National Assembly Bill No.43 of 2019) be now read a Second Time.

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The Equalisation Fund is established under Article 204 of the Constitution of Kenya 2010. Since its inception, the utilization of the Equalisation Fund has been wanting. Therefore, the rationale for coming up with this Bill is to expedite the operationalisation and expenditure of the funds in the Equalisation Fund. The obtaining situation on the ground is that of a hungry man looking at food on the table and is told that is his food but he is unable to access it. So, according to Kenyans, *ni kama huyu mtu anakula hiyo chakula kwa macho*.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Be careful Hon. Kamket. Do not gravitate towards that direction. I suppose you know the Standing Orders very clearly. Do not go that route. Use English.

**Hon. Kassait Kamket** (Tiaty, KANU): Hon. Temporary Deputy Speaker, I was just quoting. Before setting out the specific provisions of this Bill, it is important to understand the motivation behind this legislation. This is a special Fund which, according to the Constitution, is supposed to be a “catch-up fund” for the communities and regions that were left behind when the rest of the Republic was developing. This was either by design or default.

In the Constitution, the Fund is supposed to provide for basic services including water, roads, health facilities and electricity to the marginalised areas. The idea is to bring the quality of services in those areas to the level enjoyed by the rest of the nation. At this point, it is important to stress and emphasise that the Constitution talks about marginalised areas. It does not talk about marginalised counties. If I may refer to Article 204 of the Constitution, it states:

“(2) The national government shall use the Equalisation Fund only to provide basic services including water, roads, health facilities and electricity to marginalised areas to the extent necessary to bring the quality of those services in those areas to the level generally enjoyed by the rest of the nation, so far as possible.”

I am saying this because there has been a bit of confusion and misunderstanding arising from the first marginalization policy that was created by the Commission on Revenue Allocation (CRA). Although that policy has expired, it identified 14 counties as marginalised. But the Constitution talks about marginalised areas and not marginalised counties. I am happy that the current policy developed by the CRA has now been adopted and identifies sub-locations as the lowest unit of deprivation. Therefore, this has resulted in the current 114 constituencies that will be direct beneficiaries of the Fund when it is implemented properly.

It is instructive to note that development in Kenya is hinged on the Vision 2030 and its medium-term plans. Prior to the current development plan in 1965, planning was guided by Sessional Paper No.10 on African Socialism and its application to planning in Kenya. This policy concentrated on the potential areas and neglected the less potential areas of the country and, hence, the current skewed scenario in the distribution of services. Going forward, the country has tried to address this issue through the National Government Constituencies Development Fund (NG-CDF), Local Authority Transfer Fund (LATF), Community Development Trust Fund (CDTF) and other Funds.

Therefore, the Equalisation Fund Bill 2019 seeks to operationalise it as established under Article 204. Something to note as I speak to this Bill is that the Council of Governors (CoG) went to court to challenge the guidelines that were made by the Cabinet Secretary (CS) for the National Treasury to operationalise that Fund. I am aware that the court has pronounced itself on those guidelines. Even as I move this Bill, those guidelines have been quashed. Therefore, this Bill comes at the right time when there is the confusion about the guidelines and about the

formula on how to implement the Equalisation Fund as provided for in the Constitution. I am aware that in that judgement, there is an error. I am also aware that there is a notice of appeal that has been done by the Attorney-General on some sections of the judgement that tries to revert the utilization of the Fund to the counties as provided for in the former policy.

This Bill tries to simplify matters. The first characteristic of this Bill is to create a national board that is independent of the National Treasury. The Board shall consist of Kenyans appointed by the Cabinet Secretary for Treasury and approved by this Parliament. There shall be a chairman of the board, other board members and the Principal Secretaries (PSs) responsible for water, roads and health. That board is akin to the National Government Constituencies Development Fund (NGCDF) Board, and boards of other running funds that we have in this country. The Bill further establishes local committees in each marginalised area identified by the Commission for Revenue Allocation (CRA). The local committees shall be identifying the projects to be funded by the Equalisation Fund. The situation we have had so far is that of the national board made up of about 20 PSs hiring helicopters to go and identify projects in the villages. From the reports we have had from the CRA, almost Kshs600 million was utilised to hire helicopters for PSs to go and identify projects in the villages. That approach has led to a lot of wastefulness and inefficiency and the board has been unable to meet because of the busy schedules of those government officials.

Therefore, this Bill does a bottom-up approach as opposed to a top-down approach.

*(Hon. Josphat Kabinga consulted Hon. Simon King'ara)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order, Hon. Kabinga and Hon. King'ara! You cannot be the interface between the Speaker and Hon. Kamket.

**Hon. Kassait Kamket** (Tiaty, KANU): Thank you, Hon. Temporary Deputy Speaker, for that protection. This Bill, therefore, seeks to make it easy and to cure the problem of the top-bottom approach and brings the bottom-up approach, which is the most important formula in terms of dealing with the citizens of the Republic.

As I said earlier, the Fund is a special purpose vehicle which was put in the Constitution by the framers of our Constitution as a catch-up fund. I am happy the framers of the Constitution are here with us. Therefore, it does not make sense that we have such an important Fund that is supposed to help Kenyans come to the level of others who have moved ahead of them and then it is tied up by bureaucracy in offices and Kenyans are not able to benefit from it.

The monies that are paid out of the Equalisation Fund through the Appropriations Act have not had that great impact on the marginalised areas as envisaged. Therefore, this Bill will ensure that the Fund achieves its purpose by bringing services as closer to the people as possible. As provided for under Article 204 of the Constitution, the Equalisation Fund has a timeline of 20 years. It is already almost nine years after the promulgation of the Constitution. I am aware there is a provision that Parliament can amend that to extend time. However, even before we reach that time of that amendment, it is important that the Fund is utilised as quickly as possible and for the benefit of the citizens.

As I conclude, we have had issues in this country. I am very emotional this morning as I move this Bill. This is because there are some sections of this society that have been left behind as the savage backwood of society. One of those regions is the constituency that I represent. The children of Tiaty, northern Kenya, Turkana and Samburu were not supposed to be born and end

up as cattle rustlers and citizens who add no value to the Republic. If the Fund is utilised as quickly as possible to bring development to those places, the problems that we witness in this country shall be solved. Therefore, I urge my colleagues, Members of Parliament, to push for the speedy adoption of this Bill. Let this Bill be passed and assented to as quickly as possible. Let us bring the rest of those people up to speed with other Kenyans who have had the opportunity to develop.

This Bill seeks to provide the framework for the administration and management of the Equalisation Fund. As I said earlier, this Bill establishes a board that will make the administration of the Fund very easy. This Bill will establish structures and mechanisms for easy implementation of the Fund. The use of the Public Finance Management (PFM) Act to make regulations was the lazy option. The problem we have had with the Equalisation Fund is the lack of substantive legislation. So, with this legislation, we are able to operationalise the Equalisation Fund as easily as possible.

With those few remarks, I beg to move and ask Hon. Major Bashir to second.

**Hon. Major (Rtd.) Bashir S. Abdullaih** (Mandera North, JP): Thank you, Hon. Temporary Deputy Speaker. First and foremost, I second the Bill.

The Equalisation Fund Bill, 2019 is an Act of Parliament to operationalise Article 204 of the Constitution which seeks to establish structures for administering the Equalization Fund. The aim of this Bill is to operationalise the Equalisation Fund. As we all know, the Constitution provides for the Equalisation Fund. The most unfortunate part is that the operationalisation of the Fund has not taken effect. The time the drafters of this Constitution had in mind was for the Fund to be used for 20 years. We have already done 10 years in terms of time. But in terms of usage of the Fund, it is almost zero. We are left with another 10 years. The funds for provision of those services are available because they are protected by the Constitution.

Every year, that money is appropriated and kept aside for this work but nothing is happening. How is it being used? It is being used for administration. The principal secretaries who are supposed to provide services using the Equalisation Fund meet during retreats and tours of the counties. Shockingly, how can you use Kshs1 billion worth of funds for administration? The Executive mandarins who are supposed to oversee this Fund are comfortable because that pays their allowances and travel expenses. The Kshs1 billion of the Fund is used for administration. That was not the intention of the framers of the Constitution when they decided that the Equalisation Fund is supposed to be operationalised.

This Bill talks about the board. Currently, there is no board. It only comprises of the PSs in the ministries of the National Treasury; Water, Sanitation and Irrigation and Transport, Infrastructure, Housing and Urban Development. As they meet, they will assume that this is the normal budgetary system that they are undergoing. To them, they would rather have the Fund remain without a board so that they can continue administering the funds as they wish. If we had a board just like the NG-CDF where there is a Chairman, members and a CEO, everything would move smoothly.

This Bill has come at the right time even though it is very late. It should have come in the last Parliament. Nevertheless, better late than never! The membership of the board is about 10 members, including the chairman. That means we will have a board which will be accountable to the Parliament of Kenya. As it is now, with no board, there is no accountability. If the board is operationalised, instituted and in office, this House - which is the representative of the people of Kenya - will have a say in its management.



Remember, the Equalisation Fund was initially supposed to take care of 14 counties through the Commission for Revenue Allocation (CRA). But they keep on reviewing, which is part of their mandate. They have now gone deeper and said it is not supposed to take care of counties, but should go to marginalised areas. They are now covering 34 counties in marginalised areas. Marginalisation is something that we just found. Some of us were born in those places. We found ourselves there. If there was a choice, some of us would refuse and ask to be taken to county A or county B. If the Fund would have been utilised from the day we had the new Constitution up to date, we probably would not be talking about those areas. It is sad that monies are available, but they are not doing the service they are supposed to.

The good thing with this Bill is that it has what we call the bottom-up approach whereby the people in those marginalised areas will sit and decide what is good for them and what essential basic services they lack and want from the Government. That is unlike the present situation whereby the Executive PSs go with their helicopters to a village, area or county and tell them that they want to do A, B, C and D for them and that, that is good for them. They then come back to Nairobi, take another year in planning and drafting, another year to disburse funds and yet, nothing is moving on the ground. This was a special purpose vehicle to ensure the marginalised areas catch up. The phrase is “catch up”. This is so that every part of this country is at par. That has not happened.

One other thing that has also come to our attention is the court having pronounced itself on some of the guidelines that were sought by the Council of Governors (CoG), which have been found to be unconstitutional. This Bill is the cure for that unconstitutionality because it provides guidelines for the management and operationalisation of the Equalisation Fund. As we go through this, let us think of uplifting the living standards of all Kenyans. If all Kenyans are at par, we are good to go.

Marginalisation is bad in most parts of this country. It affects 34 counties. The Government marginalises on services in all aspects - even the census. Because it is known that there is always marginalisation, it has also marginalised us in terms of numbers. As poor as they are, they give birth without services. Marginalisation is across the board, especially in terms of the census. It does not only affect Northern Kenya. I know every county is making noise so that they are part of it. Since Independence, we have had marginalisation. It is still continuing. When shall we stop talking about marginalisation in this country? About 100 or 200 years from now? It will be for as long as the people mandated to provide essential services are not doing their job. We want this Bill fast-tracked and that the Executive or the Government of the day ensures its implementation once this House pronounces itself.

With those few remarks, I second the Bill.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Top on the list is Hon. Oduol Adhiambo.

**Hon. (Prof.) Jacqueline Oduol** (Nominated, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me an opportunity to contribute to this very important Bill. I want to thank the Hon. Member for enabling us, as legislators, to keep an eye on how we will ensure that services, structures and the manner in which we will make decisions and provide those services is one that is above all.

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At the outset, I support the Bill because it is clear in the manner in which the Constitution addresses concerns of inequality and areas that are disadvantaged. This is what the Bill seeks to do. I am drawn to the understanding and definition of ‘marginalization’. It is clear that, as we look at this Bill, we are working on very clear demarcations and surveys that were done by the Commission on Revenue Allocation (CRA). From that, it is clear that it was seen that marginalization is a consequence of a number of skewed processes in the distribution of scarce resources. There are cases where marginalization can also be the result of the geographic location or the manner a particular community, county or areas seem to still be outside the purview and accessibility of development and national axis.

I want to draw our attention to an important concern. Today, we have clarity or a clear indication of the areas that are deemed to be marginalised based on the very grounds that are very well spelt out not only in the Constitution, but also in the Survey Report of the CRA. I want to draw our attention to the important need to continue to debate and understand a little bit that we might need to revise what we see and deem as the marginalised areas. I support that we must ensure that those areas that are disadvantaged on national access of growth and are not close enough to the decision-making processes are given the Equalization Fund. As the Secunder of the Bill indicated, those areas sometimes do not even have their voice as other communities because they are seen to be so far removed from the national axis and central position. However, I want to indicate that when we consider the kind of areas that we have spelled out precisely on those grounds, we will see that it is possible that whereas we have already identified and listed very clear areas that need to be taken care of by this special purpose Fund, there are very specific areas that we have listed only as counties that need to be given that catch up-Fund.

We need to also recognise that there are areas in this country that still fall and qualify for the affirmative action and should be given the Equalization Fund. I am thinking of Migori County. I must say that I do not come from there. I come from Siaya County. However, I am aware that when I look at the kind of conditions and indicators that are presented in the Survey Report and the basis that determine a marginalised area, there are communities that are, for a number of reasons, not integrated in the social and economic life of Kenya as a whole. This is because they are still very deeply entrenched in their cultural practices. There are communities that are not included expressly as the beneficiaries of the Equalization Fund because of their geographic location and a number of reasons. We need to ensure that the structure of the Fund is put into effect. We want to revise and look into different parts of this country that might not have been captured. Sometimes, people look at the overall picture and they assume that they will find the circumstances that are in a broad county applicable to the very specific areas.

I support the Bill because it is clear that it is the only mechanism that will enable us to improve and ensure that we embrace and ensure that those areas that were left behind can catch-up and that the catch-up can be substantive. It would not only be in terms of making statements, but it would also be linked into very clear organizational framework that would provide necessary resources that would then affect the livelihoods and the kinds of experience that those people have. My only request is that, as we do that, then it is important for us not to base what we do not on broad generalizations, but to seek to even understand and perhaps define clearly what we see as the marginalised areas.

I thank the Mover of the Bill. As he presented, he recognised that the Constitution talks about areas and we have identified counties. I further want to request that we look beyond even

those areas that we have tended to traditionally see as marginalised. We should use the very grounds that are specified in the Constitution.

I conclude by drawing an analogy with hardship. As somebody whose background is in teaching, when I deal with teaching experience and the manner in which teachers operate, I classify broadly some areas as hardship and others as non-hardship. I take the example of Kiambu County. Most people access very good infrastructure there. However, if we look keenly for the indicators that we talk about, we might find that with regards to education in the very same county, there is some manifestation of hardship. It is for that reason that I support this Bill. I continue to ask that we re-visit and ensure that our understanding of marginalization serve the very purpose that we intended. We should not, in any way, leave some communities, geographic areas or some citizens of Kenya who are not attached to the national axis who do not receive the benefit of the national growth.

Thank you, Hon. Temporary Deputy Speaker. I support the Bill.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Shall we have Hon. Koskei Kimutai, the Member for Chepalungu?

**Hon. Gideon Koske** (Chepalungu, CMM): Hon. Temporary Deputy Speaker, I want to thank you for giving me an opportunity to also add my voice to the Equalization Fund Bill. When I look at this Fund, I still have a lot of questions in my mind on how the selection was done on the areas to benefit from this kitty. The key indicator is water. For example, my constituency is sandwiched by two constituencies. That is Emurua Dikirr and Narok West. We share the same climate with those two constituencies. We do not have water. If it is about water, I do not have it. If it is about roads, I do not have roads. If it is about farming, we all do the same farming. I want to totally accept what Hon. Kamket has brought to this honourable House. It is time for us to create an independent Committee that will take full charge of running this kitty. It is very critical that we have an independent body rather than having people who have no idea of the areas that require the kitty.

On the same note, the Equalization Fund is an extension of the hardship allowance to the teachers' fraternity. The methodology which is used to select hardship areas for teachers in this country should also have an independent body because most teachers suffer when they do not get hardship allowance. It is the same case in the constituency I lead. Teachers there do not get hardship allowance. I have an acute shortage of teachers because they do not get their hardship allowance whenever they come. It is as if they were left out when the selection of hardship areas was done.

So, I want to thank Hon. Kamket and urge this honourable House to move with speed and get independent personnel who will be in charge of this hardship allowance matter.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Milemba Omboko, you have the Floor.

**Hon. Omboko Milemba** (Emuhaya, ANC): Thank you Hon. Temporary Deputy Speaker, for giving me this chance to make a contribution towards this Bill for the marginalised areas. It is long overdue.

Marginalisation is an aspect that is deliberate. It is defined as a way of treating a person or group as insignificant or peripheral; by removing that region or group of people from public space. If we begin the understanding from that perspective, it will be easier for us. Deliberately, some regions were removed from public space. This is also a historical injustice that was

associated with colonisation and the struggle for Independence. During the struggle for Independence and colonization, boundaries that were drawn to demarcate countries and specifically Kenya did not take into account the interests of different people who were there. At the time, the people who fought for Independence did not even know that certain areas of Kenya were part of Kenya. Therefore, they did not have a chance of inviting them to the business of getting Independence. That is how they lost out. That is why they deliberately made them peripheral and marginalised. At the time of drafting the Constitution, the drafters realised that part of our problem was because certain areas were marginalised and left out and were actually points of not creating a peaceful atmosphere for the entire nation. That is why they came up with Article 204 to create a special Fund for those areas so that they can catch up with other areas of the nation that had developed ahead of those areas.

The drafters of the Constitution were also very keen to state that the amount that should be given to those areas should be 0.5 per cent of all the revenue collected by the national Government each year, calculated on the basis of the most recent audited accounts of revenue received. At one point in time, this Government shall be sued by the people for not implementing and operationalising the Constitution. Once the Constitution is in place, the people have a right to take the Government to court or the Judiciary to operationalise it for their benefit. Therefore, I find this Bill coming at a good time so that this Article can be operationalised.

The proposals by the Mover are very good. I wish to delink myself from the many speakers whom I know have spoken and many of them will come. They will just concentrate on who is marginalised, who is not marginalised and whether their areas are marginalised or not. So, we shall quickly divert this debate into an issue of inclusivity that “yes, I also come from this place and would want to be included”. But that is not the original organic thinking and mind of both the Constitution and the Mover of this Bill. Yes, we could have an iota of areas that have been left out, but that is not the basic thing we are dealing with. We want to deal with how to operationalise Article 204. They have given us very good options, that we create a national board that is also answerable to Parliament. Once this board is answerable to Parliament, it shall be overseen by Parliament and, therefore, the public. In so doing, they will also have a similar committee operating in those areas.

I still want to agree with the Mover of the Motion that we go with areas and not counties because we could have a number of areas that were deliberately left out and need to be covered within several counties. So, you do not have to pick a county entirely because a small area within that county is marginalised. I totally support the fact that we should have committees at the levels of those areas. Those committees will be in line with the Constitution on the issues of public participation so that we do not have people in Nairobi planning for what will be done. Areas were chosen which needed to bring those people at par with other areas. Being a national Chairman of the teachers, I understand Kenya very well. There are areas you go to, parts of Turkana, Tana River, Samburu and other places, and you realise you are not in Kenya. The children are not going to school not because they do not want to, but because there are no schools, teachers and facilities. This is proper marginalisation. The four areas that were picked by the Constitution which were education, health, electricity and water, among other things, were specifically to bring those areas at par. Therefore, in line with our Constitution, those committees in those areas will actually get the priority areas, mark them and we finally operationalise this Bill.

This is a good Bill which should be supported. The House should stand with it so that we bring those areas up. It will actually eliminate insecurity and other deplorable things we hear from those areas.

With those many remarks, I thank you for giving me this opportunity. I support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): We shall now have Hon. Obo Mohamed, the Member for Lamu.

**Hon. (Ms.) Ruweida Obo** (Lamu CWR, JP): Ahsante sana, Mhe. Naibu Spika wa Muda, kwa kunipa nafasi hii ya kuchangia huu Mswada.

Mwanzo namshukuru Mhe. Kamket kwa kuleta huu Mswada. Mwenyezi Mungu atakubariki. Ningependa kuwaelezea Wabunge wenzangu kwamba huu Mswada ni muhimu kwa sababu kuna watu wengi wanateseka huko ndani ndani. Tusiwe sisi Wabunge ndiyo sababu ya wao kuteseka. Kama mwenzetu alivyosema, sisi wengine tumezaliwa katika haya maeneo ambayo yametengwa. Si kuchagua kwetu; ni kwa sababu ya mipango ya Mwenyezi Mungu. Leo nitazungumza kwa kihemko. Kwa wale hawaelewi Kiswahili, labda nitasema niko *emotional* kwa sababu nimetoka Lamu jana. Kwa bahati nzuri, tumetoka maeneo ya Kiangwi ambayo ipo Wadi ya Basuba. Iko ndani ya Msitu wa Boni. Kabla niwaeleze yale niliyoyaona kule – ambayo yatawasikitisha – tukipitisha Mswada huu, utasaidia haya maeneo. Mwanzo ni muhimu tuunge Mswada huu mkono ili mambo yaende vizuri. Vile ilivyo, wengine wametengezewa barabara na kupelekwa maji. Tunasaidia lakini hatumalizi hizo shida. Kuna vijiji vilivyo na shida ya kutokuwa na hivi vitu vyote kama vile maji na elimu. Ningependa wahusika, ikiwezekana, wachague vijiji ambavyo vimeathirika kabisa nchini ili visiseme vimetengwa. Kuna vijiji vidogo kama Kiangwi vyenye matatizo yote hapa duniani. Tuzisaidie mpaka ionekane kwamba tumeziinua ili siku zijazo ziwe zimepiga hatua nyingine.

Wenzangu wamechangia elimu. Ningependa kushukuru Wizara za Elimu na Usalama. Kwa miaka mitano, shule za Kiangwi na Basuba zimefungwa. Jumatatu ya wiki hii, tumekwenda na tukakubaliana shule hizo zifunguliwe baada ya mimi kufuatilia na kupiga kelele. Nashukuru maana walisema shule zote zitafunguliwa baada ya miaka mitano. Hakuna Mbunge yeyote ambaye sehemu yake shule zimefungwa hata kwa mwaka mmoja. Tukizungumza kuhusu kutengwa, tunajua tunazungumza nini. Hatujipendekezi tu. Ni baada ya miaka mitano shule hizi zinaenda kufunguliwa. Nashukuru wamefanya hivyo.

Nilikuwa na wenzetu kutoka idara mbali mbali tulipoenda kujionea mambo ya pale Kiangwi. Tulipokuwa kule, kuna mmoja wa wahudumu wa Kenya Red Cross amabaye katika mazungumzo yake, aliwaambia watu wa Kiangwi kuwa kwa sasa mvua inanyesha, wahakikishe wameficha vyeti vyao vya kuzaliwa hata ikiwa watazipeleka kwa majirani wao ili zisinyeshewe. Usemi kama huu, utakueleza hali ilivyo. Watu walio kule wananyeshewa kutokana na shida zilizoko. Ni vizuri sisi kama Bunge tupange Wabunge watembea waone zile hali.

Tulipoenda kama kamati Lamu, tuliaambiwa mbona tunasema tumetengwa na Lamu Town iko sawa. Kuna sehemu ndani ya Lamu County ambazo ukienda zitakusikitisha. Elimu haipo. Kuna jamii ambazo mpaka sasa hazijapata mtu aliyehitimu na shahada ya digrii hata mmoja. Pia, hazina barabara na maji. Tukipewa hizo pesa, wale watakaozishughulikia wamakinike kwa kuwa watawajibika kwa Mwenyezi Mungu.

Kwa mfano, kuna pesa ya *Equalization Fund* zilizopelekwa kwa mradi wa maji unaoitwa Kimangai-Kiunga. Mradi huo haupo. Pesa hizo zilipelekwa kwingine. Watu wa sehemu hizi ni fukara, sio maskini. Maskini ni afadhali. Wale ni fukara; hawana hata chakula ilihali pesa za mradi kama huo zinapotolewa zinapelekwa kwingine. Nilipiga kelele kwa wahusika na

wakasema watapeleka mradi mwingine kule. Mradi huo wa Kimangai-Kiunga sasa haupo kwa watu maskini ambao hawawezi kujitetea.

Tulipoenda Kiangwe, hata nguo za kuvaa watu hawana. Ilibidi nimwambie mhudumu mmoja wa ofisi yangu aivue *T-Shirt* yake amvalishe mtoto aliyekuwa na vazi la aibu lililo chanika. Matatizo yako. Hatutaki kuwa hivo siku zote. Tunataka siku moja, hili tusemalo kuwa sisi ni jamii iliyotengwa lisiwe. Tuinuliwe ili wengine kutoka *county* zingine waje waangalie makwetu. Hatupendi kujiita hivyo. Kwamba, siku zote tunalalamika tumetengwa. Hatupendi kuitwa hivyo; ni hali zimetuwia tu.

Wanaofanya kazi Kiangwe hawatoki Lamu County peke yake. Kuna wafanyikazi kutoka *county* zote. Kwa mfano, kuna watu wanaofanya kazi kwa Jeshi. Kwa hivyo, wanaofanya kazi kule wana matatizo mengi kwa sababu ya ukosefu wa vitu kama barabara, maji na hospitali. Wanaofanya kazi kule ni wenu pia; wateteeni maana wanapoenda kule, pia wao wanapata shida hizo. Nilienda kuona Jeshi kule. Wana shida. Zile sehemu ni ngumu. Ukienda kuwaona askari wanaokaa kule na kulipwa sawa na walio kwingineko, pia nao wanapata shida. Kuna sheria zimewekwa kwamba, walimu wapelekwe kokote kwa sababu Serikali inataka tujumuike pamoja kama Wakenya. Walimu wakitolewa Lamu kupelekwa sehemu zingine, imekuwa sawa. Lakini wa sehemu zingine wakipelekwa Lamu, wanakimbia. Hawawezi kuishi katika yale mazingira. Tunaomba serikali inapopanga *policies*, sehemu kama Lamu iangaliwe.

Mhe. Naibu Spika wa Muda, ukiruhusu, hiyo *delocalisation* haifanyiki Lamu ingawa inalazimishwa. Sisi, wakati mwingine, tunaenda *extra mile* kusomesha wanafunzi wa kule Kiangwe ili waweze kufundisha sehemu yao ya Waboni na pakitokea shida, wasikimbie. Utapata kuwa wale waliokubali tukawasomesha, hukubali kuchukuliwa kupelekwa sehemu zingine ilhali wengine wakipelekwa Kiangwe, hawataki kwenda. Sera hii ni nzuri lakini haiwezi kutekelezwa Lamu. Tunataka tufikiriwe katika swala hili. Nimelalamika kuwa walimu wameandikwa lakini wanapelekwa kaunti jirani na wale wa *county* jirani wanaletwa kwetu. Watafanya kazi kiviipi na shida ya Boni imekuwepo kwa miaka mitano? Ukiwaleta walimu, watakimbia na shida zetu zitasalia kuwa vile vile. Kwa hivyo, kabla ya sheria hii kupitishwa, watufikirie maana kila wanapobandika sheria hizi kwa nguvu na hazitekelezeki, wanazidi kutusukuma chini.

Ninaunga mkono Mswada huu na ninaomba Mhe. Kamaket na Waheshimiwa wenzangu watuunge mkono. Kama hamuamini ninayosema, naomba mtembee Basuba Ward mujionee; mtalia. Sizingumzi kuhusu sehemu zingine za Lamu. Watu hawana hata nguo za kuvaa. Sasa nina *mobilise* nipate manguo nipeleke kule. Sikatai kuwafanyia haya lakini hatuna ule uwezo wa kuwafanyia haya.

Ahsante.

**The Temporary Deputy Speaker** (Hon. Mariru): Next, on my left, we shall have Hon. Baya Yaa, the Member for Kilifi North.

**Hon. Owen Baya** (Kilifi North, ODM): Thank you, Hon. Temporary Deputy Speaker. At the outset, I will propose several amendments to this Bill. I want to congratulate Hon. Kamket for his effort and for bringing this Bill. For the first time, after many years, the 11<sup>th</sup> Parliament and this Parliament will have an Act that will manage the Equalisation Fund. This Fund, as put in the Constitution, was supposed to help regions to catch up and there was a reason. My people of Kilifi North voted for the Constitution because this Article was in the Constitution. We have come a long way, but the mandarins that we have in Treasury have been unable to implement it for their own reasons. This is not money that is being given; it is a Fund. A Fund means that every year for the number of years that we have had since the inception of the Fund, that money

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should have been in an account available for distribution. What has happened is that there is only one distribution.

The Constitution says that every year, 0.5 per cent of all the revenue that is collected by the national Government calculated on the basis of the most recent audited accounts of revenue received, as approved by the National Assembly, will be available. I went to the Treasury one day and asked the Cabinet Secretary: Where is the money? How much is it now from the first policy, because inception is counted from the first policy? From the first policy up to today, we should be having billions and billions of shillings available, which the areas that are marginalised should be using. But if you go there today they will tell you that they have sent money to health, education and other things. This is the case and yet the money for the Equalisation Fund is supposed to be held there and it should be running into billions of shillings. Those people who were supposed to benefit from this Fund today still languish in poverty despite the availability of this Fund.

One of the explanations I think is that they have spent the money on other purposes but that would be wrong. That would be an injustice. It would even be unconstitutional if they have spent the money for other reasons. There was money that was allocated to schools in my constituency under the Equalisation Fund but to date it has not been used and that was 2015. Now, from 2015 when the policy came into place until today, calculate at 0.5 per cent of revenue, how much is supposed to be available right now in a kitty for marginalisation? That has not happened. Why? Because there are people in the Treasury who have ensured that it is not done because the areas that they come from are not included. And because of that, they say this Equalisation Fund cannot be implemented, because their areas will not benefit. With this Bill, those of us who come from those marginalised areas will have an opportunity to see the catching up that is envisioned in the Constitution.

Secondly, marginalisation is a process. If you read the second policy by CRA, they will tell you how marginalisation trickled in this country, from 1932 to Sessional Paper No.10 to the District Focus for Rural Development - all those policies that were there culminated into marginalisation. If you read the history of the marginalisation of the Northern Frontier Districts, you realise that that is how marginalisation started, pre-Independence and post-Independence. You find that especially the North Eastern area, because of the Shifta Wars and the tussle between Somalia and Kenya, it was marginalised systematically by the then Government. It was denied resources for one reason or the other. That is why it is what it is. The areas of Coast were marginalised. Even the Majimbo policy that was being done then and the Harambee philosophy ensured marginalisation of certain communities. Those that did not have resources, remained without resources and no resources were sent there. Those that their people had gone to school and had money and everything, development projects went into those areas because there were deliberate efforts to ensure that other areas remained the same.

There is something that needs to be corrected. We cannot equate marginalisation to poverty. We cannot do that and then say all poor areas in this country were marginalised. No! There are those people who became poor because they were marginalised and that is an important fact. They are poor the way they are because there was systemic marginalisation of the people and the areas and deliberate denial of resources for one reason or the other. There was a deliberate attempt to put more resources in certain areas for them to develop faster than the others, the trickle-down effect that is in Sessional Paper No.10. It is very clear that we put money where there was money and those areas where there is no money; we did not put anything,

because we hoped the more developed areas would help the other areas to develop. That is what the Constitution and this Act need to cure.

The policy that was done by the CRA has expanded from the original 14 to 34 counties. And then it has gone further to break it down to small wards. Doing that means that you will allocate Kshs1 million to a ward and go to another ward and allocate Kshs500,000. We are spreading the money too thinly and there will be no benefit to those areas. And those areas that were already developed continue to have money. The reason why certain projects were identified - water, electricity, roads and health, that is what the Constitution talks about - because in these places if you have water, development will come faster; if you have health services, you are helping the area more; if you have electricity... That is why these projects were put as the key drivers and why this money should go to support those areas. Today someone tells me Matsangoni is one of the areas that have been identified.

You can imagine in my Kilifi Constituency, which has a lot of pockets of poor areas, only one ward has been identified. You have places here which are already developed in this country, if you look at the CRA policy. We have 20 areas. I want to say here that the CRA did this thing with bias, because many of the CRA commissioners come from areas that were not included in the original marginalisation policy. They came in to expand the list to include areas that are not marginalised. I am losing my voice on this because it is very hurting to see what we are doing.

Some of the proposals that I want to suggest are that that list developed by CRA must come to this Parliament, we scrutinise it so that those areas that are actually marginalised get the funds and those areas that are not marginalised are kicked out of that list. The second thing we have in this Bill is the National Fund Board and many local committees. I will propose that we have committees at a second level: the national, the constituency and then the local areas for the purpose of coordination. You cannot take electricity from the main road to Matsangoni Village or Roka Village without passing through other areas which do not have electricity. How will the electricity get there if you do not consider the whole line? You are saying you want to take water to a village in Taita Taveta which does not have tapped water, but you have excluded a neighbouring village where the pipeline must pass through and then you give them Kshs500,000. How will the water get there? You are allocating Kshs1 million to build a school in an area where there is no school and yet the neighbouring area has no school.

I want to emphasise that there has been a deliberate attempt, even in the policy by CRA to continue to marginalise already marginalised areas. I will move amendments to this and to the policy so that Kilifi as a county benefits because it was one of the areas that were marginalised in this country. It is in every record that is available on marginalisation. You cannot give Kilifi the amount of money that CRA has given and take all the money to areas that are already developed.

I support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Baya, take some water. Hon. Milemba is not a good neighbour. Instead of him giving you some water, he actually ran away from you. Nevertheless, I am sure you will get some water.

What is your point of order, Hon. Omulele?

**Hon. Christopher Omulele** (Luanda, ODM): Hon. Temporary Deputy Speaker, with due regard and respect to the Chair, Hon. Milemba was not running away from the Member for Kilifi North; he was only coming to join the Member for Luanda, who is his neighbour. We suffer the same fate because we are marginalised. We are extremely marginalised in Luanda and Emuhaya, because we have got the highest population density in this country outside of Nairobi. We also



want to be included in this consideration of marginalised areas. That is what we are discussing here.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): You know Hon. Omulele went further to contribute to the debate through another door. That is well understood. Let us listen to Hon. Ole Sankok David.

**Hon. David ole Sankok** (Nominated, JP): Thank you very much, Hon. Temporary Deputy Speaker, for giving me an opportunity to contribute to such an extremely important Bill. Article 204 of our Constitution sets up the Equalisation Fund, which decided that there were counties and regions that were left behind courtesy of the infamous Sessional Paper No.10 of 1965. In that Sessional Paper, resources were allocated to high potential areas. At that time, the “kitchen” cabinet that was describing the high potential areas were mostly farmers. Due to their way of life, they thought high potential areas are only on agriculture because they were entirely agricultural people by occupation. So, in their own retrogressive thinking, they alienated 80 per cent of the land mass of Kenya endowed with other resources such as minerals, tourism, livestock and other underground resources such as wind power in Loiyangalani and oil in Turkana.

If today we had a “kitchen” cabinet to decide which area of Kenya is high potential and I am the chair of that particular cabinet, I would say livestock is high potential. This is because from the time I was born, I started tasting livestock products, I slept on hides and skins, and I survived in school courtesy of money from livestock. Therefore, I do not blame the drafters of Session Paper No.10 of 1965, but I blame the areas where we decided were of high potential. That is why we had marginalisation. That is what the Constitution of Kenya, 2010 wants to cure in Article 204.

The drafters of the Constitution decided that there were 14 counties that were left behind, courtesy of Session Paper No.10 of 1965. Those who marginalised us – the Kitchen Cabinet that was mostly made up of agricultural people – recollected the same in a Commission report and decided that they would relook at the issue of marginalised counties. That is why they added other factors. They said some pockets were marginalised.

Hon. Temporary Deputy Speaker with due respect to Hon. Omulele, he is using high population density as another factor in deciding which area is marginalised. If they recollect again, we may end up having the whole country joining in the Equalisation Fund and we will not have a reason for doing so.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): On a point of information.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order, Hon. Sankok. What is it, Hon. Pukose?

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Temporary Deputy Speaker. I am listening to Hon Sankok. I wonder if he is in order to say that a Sessional Paper is decided by a ‘kitchen’ cabinet, knowing very well that any Sessional Paper, constitutional amendment or any legal document has to come to the House and Parliament is the one that approves. It is not approved through a ‘kitchen’ Cabinet. When he continues in that line, it means there is something called ‘kitchen’ cabinet that decides how sessional papers are going to be implemented. So, Hon. Sankok is misleading the House.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Sankok was nodding when you were speaking. He seems to be educated to that extent. It seems to be a point of information.

**Hon. David ole Sankok** (Nominated, JP): Hon. Temporary Deputy Speaker, Hon. Pukose is my senior and so I have been educated. However, the Sessional Paper was passed by Parliament. The Sessional Paper only says that Kenyan taxes would be invested in high potential areas but the 'kitchen' cabinet went ahead to demarcate our country into high potential areas and low potential areas. Since they were agricultural people, they thought pastoralism and underground resources such as wind power in Suswa and Tourism that is in Narok and Kajiado is low potential. Basically, that is why. Now we do not have a board and that is why we want to operationalise this Equalisation Fund.

Due to lack of a board there has been a major scandal, just like what happened with the National Youth Service (NYS). Why I talk about a major scandal is that we are being informed that already Kshs1 billion has been used on operations to oversee non-existent projects and money that has not been sent to the respective counties that are supposed to benefit from the Equalisation Fund. A sum of Kshs1 billion is not chicken change. It would have been used to build dams. I am talking of the small water pans that go at Kshs100,000 each. It would have been used to build 10,000 water pans that would reduce pastures and water related conflicts in our regions. Hon. Kamket would not be having problems with Hon. Kamuren if we had used the Equalisation Fund properly. That is why Hon. Kamket decided to bring this Bill so that we can operationalise this Fund to uplift the life of our people.

Our regions are being blamed for cattle rustling. Cattle rustling is a crime that has been sanitised by giving it a better name but it is a capital offence that involves rape, murder and robbery with violence. If you live in those regions, sometimes your cows are stolen and you are left with nothing else to depend on: no food on the table, no clothes to wear, no money for paying school fees for your children or settle medical bills for your patients. So, such people sometimes have to go for cattle rustling. That is how sometimes marginalisation causes cattle rustling. If we had enough infrastructure and water, we would not be talking of cattle rustling in those regions. Hon. Kamket and Hon. Kamuren could have been the best of friends. We need this Fund to be operationalised so that our people can also be 'jumpstarted' economically. Our people are tired of seeking favours from the Government. We literally become beggars in times of drought. We are tired of begging. Our country is not a severe desert like Libya and Qatar, but Libya and Qatar feed their own people. With enough infrastructure and irrigation, our people will become self-sufficient. That will only come about with the operationalisation of the Equalisation Fund.

With those many remarks, I support this Bill.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Abdi Yussuf, the Member for Kamukunji, you have the Floor.

**Hon. Yusuf Hassan** (Kamukunji, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this chance. I stand to support the Equalisation Fund Bill of 2019 brought by Hon. Kamket.

It is important to look at our history as a country. We are a country of many nations that were artificially created by the colonial system; and in that process the colonial system built an economic system based on the exploitation of resources from the much more productive regions in the Kenyan highlands. They built the necessary infrastructure to exploit and export those resources for the benefit of the colonial power.

After independence, we seemed to have continued with the same policies of reinforcing the more developed areas at the expense of the marginalised peripherals of Northern Kenya in

particular. There is need to rethink because that thinking was false in the sense that it left a huge section of our population outside the promise of reaching development and equality. We cannot be a stable, developing and prosperous country unless we release all our populations from the shackles of underdevelopment, poverty and inequality.

The only way to do that is by investing in those territories and communities that have been left out. This requires a rethink and change in the policies and approaches of development we have adopted in our country. For example, for the first time we have oil in Turkana which is a seriously underdeveloped region. Unless, we put resources in those neighborhoods and communities, it will be very difficult to exploit the oil for the benefit of the rest of Kenya. We will have a marginalised and underprivileged community that feels resentful that we are taking their resources yet, they have never had any development dividends in independent Kenya.

So, the same applies to many of these counties we consider to be poor and unproductive. Many of them are potentially very rich. They have livestock and some have mineral resources that can help our country go forward in terms of development. Unless, we invested in human resource and development of the infrastructure of those communities and counties, we will be unable to achieve the Vision 2030. This particular Bill is a small step in addressing some of those critical issues in our country and society which needs to be addressed.

Parliament can make a contribution by making interventions of changing policies that have not worked for us. Every other development paradigm we have used does not fit and is not adoptable or relevant to many of the conditions we find in those countries. I think this particular Fund will address some of the development needs of communities in those neglected areas.

It is high time we also looked at our policies to ensure we have even development. Unless we have fair and equitable system in our country and social justice we will not have stability. Look at what is happening with terrorism and violent extremism. You will find that many of the pockets of extremism are the most underdeveloped areas that have been left behind. These are communities that feel they have not benefited from the developments in Kenya. We need to change this mindset by investing in those communities, uplifting them and making them equal to others. That is the way we can get an equal and just country. It is also the first step towards creating a country that is economically developed, prosperous and one that competes internationally in the difficult and competitive global environment we have today.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Let us now hear Hon. Kiti Chonga, Member for Kilifi South.

**Hon. Ken Chonga** (Kilifi South, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. I stand to strongly support this Motion by Hon. Kamket. It has come at a good time when it is raining in the whole country and the negative effects are being felt. I am sure even the marginalised areas are feeling them much more.

The Fund was established because of very good reasons. Among the key issues that were supposed to address are health, poverty, infrastructure and education; these are historical challenges that have been there which were even addressed by the first President of this country. Indeed, given the time from when we got independence up to now, we are not supposed to be in the state we are in.

The former regimes deliberately made some areas encrypt with poverty. As a result those who thought of coming up with this Fund realised this was the only way they could mitigate or bridge the difference between the developed areas and marginalised ones. We are aware that 5

per cent of the total revenue that the Government collects is supposed to address these issues. One of the biggest surprises we are finding is that, a place like Kilifi South, which is among the areas that have been identified to benefit from this Fund, has never seen a single project, 10 years down the line after this Fund was established.

So, we are wondering where this money has been going. Who is letting us down? This is because it appears there is a deliberate move by those who have been given the responsibility to manage this Fund to ensure that those areas are encrypted more. We are elected for five years after which the electorate would wish to see what we have done. But, 10 years after inception of this Fund which is supposed to bridge the difference between the developed and undeveloped areas, have nothing to show. Five years will end and if corrective measures are not taken early enough. We will be surprised when 20 years end and nothing has been done.

I strongly support the establishment of specific institutions to manage this Fund. Once a constituency accesses this Fund or the local *mwananchi* gets a structure to voice their concern on the management of this Fund, I believe things will change. Looking at the way things are moving, I concur with my friend Hon. ole Sankok that a whole Kshs1 billion has been spent and there is totally nothing that can be pointed out as having been done.

As we speak now, in my constituency there are areas where children could not sit for exams because of the rivers which they could not cross. As we speak now, people are dying because they cannot even access the nearest health centre because of flooded rivers. People are also hungry and cannot access food. There are people who have not been sleeping in their houses and have moved to higher areas because it has flooded all over. Yet, we have this Fund which was specifically brought to address some of these issues.

This Bill is timely and this House is supposed to take the necessary measures and summons. Those who have been given the responsibility to manage this Fund should explain. We have walked to the National Treasury numerous times; but the stories we get there are not satisfactory enough to tell *wananchi* and make them understand something is being done using this established Fund. Structures have to be established. There should be institutions which can be responsible and they can explain how they have been managing this Fund. Otherwise, I do not see the reason why we should have a Fund that is not assisting the common *mwananchi*. It makes no sense. The *mwananchi* will still complain and yet these are the same people who pay taxes that go towards funding projects that are supposed to be funded by the Fund.

With these few remarks, I strongly support this Motion. I hope very soon we shall come with structures which will ensure that this Fund realises the goal the *mwananchi* is looking at. Thank you very much.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Kabinga, the Member for Mwea, you have the Floor.

**Hon. Josphat Kabinga** (Mwea, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this chance to also contribute to this very important Motion. This Bill simply wants to operationalise that which has been spelt out in the Constitution. Article 204 of the Constitution stipulated that we shall have an Equalisation Fund that will be in existence for 20 years. After 20 years, we expect that things will be better and there will equitable development in this country. Unless that is the case, this particular Equalisation Fund will cease to exist. Of course, Parliament will review that.

As we speak about marginalisation, as Members of Parliament, we need to live to the realities. I am happy to have travelled in this country quite well. I believe I have touched on

almost all counties in this country and I have seen by myself the need and underdevelopment out there. However, even as we do so, it is also good for Members in this Parliament to also live to the realities that even as we talk about counties that seem to have developed, we also have areas within those counties that have historical marginalisation. Historical marginalisation in some of these counties is a reality.

I speak to my own constituency of Mwea. In the precolonial time, Mwea did not have the population that it has now. In fact, Mwea was a grazing area for people who lived in the uplands. The colonial administration then made sure that there was no development that was to take place in Mwea because it was for animals and not for people. Over time, the colonialists decided to settle the Mau Mau people who did not have areas to settle in the areas they came from. Therefore, this particular constituency has grown without the infrastructure that has been enjoyed by other parts of the region. As I speak about this, there are indicators that can confirm this. It is the first time that this particular constituency now has what I would call a mean tarmac road other than other roads that are targeted in other parts of the region. It is the first time. This indicates the fact that there has been some ignorance. This area has been ignored for some time.

Therefore, I urge my brothers who come from other parts of the country who are in the category of marginalised areas to also acknowledge and know that there are some areas that may not be out rightly be seen to have been marginalised but they are actually historically marginalised. If you look at schools in my area, you will see some of them are in a pathetic state. I have heard what Members talked about here. I have an area called South Gariama. If you go there today and see the kind of classes that our children school in, you will be surprised that we are talking about a region that is historically known to have developed. Let me quote the definition that is given for marginalisation:

“Marginalised community means a community that, because of its relatively small population or for any other reason, has been unable to fully participate in the integrated social and economic life of Kenya as a whole.”

I am on those particular words “for any other reason”. I believe there are many other constituencies in this country that are suffering the same way as my constituency. Hon. Temporary Deputy Speaker, you just mentioned your area too. We have areas that are populated and because they are so populated, they are not enjoying resources like other constituencies. My constituency, in the last census that was undertaken, we were counted to be 238,000. I know there are issues which people are talking about. My constituency is 40 per cent of my county. My constituency is the least developed in my county. If we are to look at this marginalisation and we really want the whole population in this country to equitably develop by the targeted period, then we must go beyond what we are looking at and ensure that we also include some of these areas in this Fund.

I am aware that some of these areas that we are looking at are benefiting from devolution funds in a big way. They are areas where donors are focusing in a big way. They are areas that benefit from hardship allowance. Therefore, if we are talking about equitable development, we must look at the sum total of resources that are getting into particular areas and then ask ourselves year by year how much we need to put in there so that we can bring up these areas to the level that we want. As we do so, it is important that we also do not forget areas that are generating that resource. It is important to know as a country that if we forget to also pump in some resources to some of those areas that generate resources, what we are going to see 20 years to come is that we have uplifted areas but we have remained stagnant in generating resources for

tomorrow. This is why I am saying CRA needs to open up its eyes much wider to ensure that even as we do equitable sharing of these resources, we also do not forget to invest in the same.

I have always had an issue even with our resources here in Parliament. I look at my constituency, my eight wards and my population of 237,000 and compare it to some constituencies that are under 50,000 people and others which are under three wards and we are getting the same NGCDF resource. That is not a way of arriving at equitable development. I have just talked about my constituency. I have compared it with my neighbours. I have seven neighbouring constituencies and all of them have less than five wards. I have eight. We receive the same resource. We are expected to produce the same development result at the end of the year. This cannot happen. This will not be possible.

Therefore, I urge my brothers who I really feel because as I said, I am well-travelled in this country. I have travelled in the 47 counties in this country because of my previous assignment and I know the suffering out there. However, even as we do so, let us also acknowledge that there are also other areas which are not categorised by the definition of the words “marginalised community” and are suffering. Let us acknowledge that we need to come as a Parliament and widen our scope and look at the country as one and determine what we need to do in each of the areas so that we can achieve this equitable development without addressing the historical marginalisation, introducing some future marginalisation and leaving it to future generations to come and sort out.

I fully support this Bill but we will also come in strongly to argue our case, especially my case where I come from in Mwea, an area that was historically supposed to be a grazing area for livestock. It is an area that has a lot of potential right now but, as I have said, people do not have water. We rely on canal water for irrigation. That is why our region has recorded the highest rate of incidences of the disease. We shall, therefore, be coming in to argue our case so that even as we support our brothers and sisters to see better development in those areas, they should also look at some of the areas that are not historically known to be marginalised yet in the real sense they are marginalised.

With those few remarks, I support this Bill and ask that it be enacted as quickly as possible so that we do not lose 20 years to review the status of this country.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Thank you, Member for Mwea, for also holding brief for the people of Luanda. Incidentally, the population density in Luanda is so great. We have almost 110,000 people squeezed into a 95-kilometre square of land. They are supposed to survive on agriculture. It is impossible to farm. It is basically a rural slum. It is fair that you are holding brief for them. As we consider the new logarithm for sharing these funds, we should consider them.

Hon. Mwambire, Member for Ganze.

**Hon. Teddy Mwambire** (Ganze, ODM): Asante sana, Bwana Naibu Spika wa Muda. Naunga mkono Mswada ulio mbele ya Bunge.

Nina tashwishi kama vile mwenzangu kutoka Eneo Bunge la Kilifi Kaskazini alivyosema kwamba mpango huu unaonekana kuwa mzuri. Uhaba wake ni kwamba zile sehemu ambazo zimeongezewa hazitaweza kuleta ufanisi ama maendeleo kamilifu kama vile tungependelea. Eneo Bunge ninalowakilisha kule Kaunti ya Kilifi ndilo eneo bunge maskini zaidi. Katika mwaka wa 2013, lilinukuliwa kama eneo bunge maskini zaidi hapa Kenya. Hatujaona nukuu nyingine ambayo imelitoa katika sehemu hiyo.

Nashangaa kwa sababu katika ule muda ambao tumekuwa na hizi Pesa za Usawazishaji wa Maendeleo, hatujapata pesa ambazo zinaweza kutusaidia zaidi. Zimekuwa zikipelekwa katika kaunti ama serikali-gatuzi kuangalia maeneo yale. Kwa sababu kulikuwa hakuna mwelekeo thabiti au maalumu, umefanya maendeleo yaenezwe katika maeneo bunge ambayo hayajaathirika sana. Kuna umuhimu wa kuangalia huu mfumo mpya ili urekebishwe na kuhakikisha kuwa maeneo bunge ambayo yameathirika zaidi yanapata maendeleo yanayoambatana na vile ilivyopendekezwa katika Katiba.

Kulingana na vile ambavyo mambo yalivyo kufikia leo, bado tuna matatizo makubwa. Tukiangalia ile miradi ambayo imefadhiliwa na pesa hizi hivi juzi, utaona kuwa maeneo bunge mengi - yakiwemo yale ambayo yanabashiriwa kwamba yana afueni - yalipewa senti hizi. Yamepata senti hizi kwa wingi zaidi kushinda hata yale maeneo yetu ambayo yameathirika zaidi.

Hivyo basi kufikia leo, bado tuna matatizo makubwa ya kupata maji, barabara na vituo vya afya. Itakuwa vyema kama kutakuwepo na mpangilio maalum baada ya muda ili tuangalie kama tumepiga hatua ama bado tuko hivi, kuliko kupeana pesa tu kwa maeneo pasipo na kufuatilia kikamilifu.

Nimeangalia eneo bunge langu na nikaona kwamba limezingatiwa kule chini kabisa kuanzia zile *sub-locations*. Ukiangalia, utapata kwamba kama ni kupeana pesa kuambatana na vile viegezo ambao vimewekwa, itamaanisha kwamba tutakuwa tunapata pesa kidogo zaidi. Kwa mfano, *sub-location* ya Mitsedzini katika eneo bunge langu ikipatiwa shilingi nusu milioni na inahitaji maji, inamaanisha wazi kwamba ule mradi wa maji hautaweza kukamilika katika maeneo hayo. Itakuwa vigumu kutoa pesa katika sehemu nyingine kupeleka kwa sehemu moja ili uweze kupata mradi ambao utakuwa kamilifu.

Hivyo basi, mapendekezo yangu katika yale mabadiliko ambayo tutaleta ni kuwa pesa ziwekwe katika maeneo bunge ili maeneo ambayo yameathirika zaidi yaangaziwe na yapatiwe miradi ambayo itaambatana na lile tatizo liko ili miradi ikamilike. Hatutaki tuwe na miradi katika maeneo yetu ambayo haijakamilika au haitaleta manufaa kwa wananchi wetu. Tunataka tuhakikishe kwamba miradi yote inaleta afueni na usawa ambao unatajikana katika Katiba ili tujivunie kama Wakenya wengine na tuache kulia na kuvumilia. Tutafurahia matunda ya Uhuru na pesa za usawazishaji zisawazishe kama ilivyodhamiriwa katika Katiba.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Let us have Hon. Kolosh.

**Hon. Ahmed Kolosh** (Wajir West, ODM): Thank you, Hon. Temporary Deputy Speaker. I first thank Hon. Kamket for trying to operationalise an Article of the Constitution to ensure that we have this money used for the purposes intended within the legal framework. I do not normally agree with Hon. Kamket on too many issues. He was the tallying agent of my opponent in a by-election. I strongly support this Bill because it cuts across.

First, we need to understand that it is a constitutional requirement. The drafters of the Constitution realised that certain parts of this country were not at par with the rest and that there was need to put money aside to ensure that we all grow together. There is a tendency in this Republic that my name changes with the office I hold simply because I hold brief, not for the people of Kenya who probably pay salaries to all public servants, but to the communities, constituencies and counties we come from. The current Commission for Revenue Allocation (CRA) is, in my view, a disaster in the making. You cannot dilute a formula to the extent that you say one village in a constituency that is so developed is marginalised. The resources of that constituency can be used to bring that village at par with the rest.

The understanding I have of marginalisation is how long you travel to get to a health centre. How long do you walk to a watering point? Why has it been so? When I left my office in the morning, I wrote a letter to the Ethics and Anti-Corruption Commission (EACC) asking them to investigate the only single project that was implemented through the Equalisation Fund. It was given to a ministry that has a lot of money and a lot of other things to do. They did not care. They tendered. The money was paid and the project died. Bringing such a board to ensure that these monies are not only well-utilised but prioritised for areas that are in need is timely. I thank the Member for bringing this.

Sessional Paper No.10 of 1965 might look different to everybody. I represent a constituency where 5,000 men were massacred in two days in 1984 - for those who have heard of the Wagalla Massacre. Nobody talked about it. Currently, this marginalisation still continues because it is not necessarily setting funds aside. It is operating and using Government force with impunity to punish and marginalise people. If you recall just the other day, schools in settlements and towns in Tana River that have been there for 20 years were demolished. I am told that a child who has finished school has gone for retirement. You are now demolishing that school and saying it is an illegality. It is simply because the person you have in office that day determines what is illegal and legal. We have taken the concept of marginalisation too far. We cannot narrow it down to resource allocation alone. It has to be perception matters. We have to view Kenya as a country that must move together not only in terms of resources, but also respect those who are less fortunate. It is a reality that these funds are currently stacked and there are no modalities of allocating them. If we let the CRA do what it does best, it will be so diluted that we will not have the reasons which are envisaged in the Constitution. All this money should serve that purpose. That is why we must have conditions for its implementation. This will come after the Bill will be passed.

Kenya, as a country, can only have one President and Parliament at a time. We can only have occupants of offices coming from certain parts of this Republic. The unfortunate thing is that, as Mr. John Githongo can call it, those in offices will be there simply because it is their turn to eat but not to serve. This Bill does not only address the operationalisation of these funds at the top, but also up to the village level. There are village committees which will identify projects which should be prioritised from the bottom to the top, so that it is not at the whims of anybody seated in an office somewhere to ensure how these funds are used. If there was goodwill of bureaucrats in the offices after the Constitution was promulgated in 2010, this money would have helped a lot of people. They think that, "*Hii pesa inasaidia wao*". *Wao* are not part of Kenya. So, this money cannot be used and operationalised. Nothing stopped the Government from coming up with policies that transfer this money to regions and constituencies that are marginalised.

Let us agree that Kenya has a problem, including the corruption rates that we have. There is too much political environment. Instead of talking and realising the problems that are in the constituency that Hon. Chris Wamalwa represents, like a national leader and reason it out with him, I disagree with him because I am not represented there. There is a problem that is unique in his constituency. I know that people from that region have one problem, which is unity and which will not be addressed by the Equalisation Fund. If we know that there are problems in certain areas of this Republic, as national leaders who represent the people and who are here because of the votes of the people, we must move with speed to ensure that we stand with these people. It is not a competition among constituencies, counties and villages. The problems are



there. However, please pay attention to some of the areas. In the last one-and-a-half months, no vehicle has travelled across my constituency. There is no single Government service that has been rendered. Exam papers are taken there by choppers. When we say that there are constituencies which are marginalised, we are simply talking about where it becomes difficult to render services simply because of the state of affairs of those areas.

With these remarks, I support the Bill. Thank you.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Mhe. Kolosh, ulikuwa umemkashifu Mhe. Kassait. Ulisema ya kwamba alikuwa amekuhujumu kwa njia nyingine. Lakini, nimeona sasa umegundua kwamba baniani mbaya lakini kiatu chake dawa.

Hon. Wamalwa.

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD – K): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute to the Equalisation Fund Bill which is important.

First, I want to thank Hon. Kamket for coming up with this Bill. For the benefit of the new Members, a similar Bill was in the last Parliament. It was brought by Hon. Lelelit who was a Member of Parliament from Samburu. It came as a constitutional amendment to establish a clear framework of the Equalisation Fund. As you all know, in a constitutional amendment, we must have two-thirds of Hon. Members present. Unfortunately, at that particular time, we did not achieve the two-thirds number. So, this Bill was here. I hope that Hon. Kamket is listening so that it will help him when he replies.

I have looked at the context of this Bill. I want to speak about two or three issues that I have not heard any other Member of Parliament talk about. We know that the Bill is supposed to provide a clear framework and structures of how this money will be used. Since the Constitution was promulgated, this Equalisation Fund has been abused. It is used by the Executive for its own way of doing things. These funds are under the National Treasury but the Executive uses them at its discretion. It is abused. When such a Bill is in place, these funds will not be abused. They will go and help in equitable development, particularly to correct the historical injustices of some regions which are marginalised.

*(The Temporary Deputy Speaker consulted an Hon. Member)*

Article 204(3)(b) of the Constitution brings in the element... Hon. Temporary Deputy Speaker, I wish you can listen. Thank you, Hon. Temporary Deputy Speaker.

Article 204 (3) (b) of the Constitution gives the framework of the counties. When you read this Bill clearly on the statement of how the Bill concerns county governments, it says that it does not affect the functions of the county governments as set out in Schedule 4 of the Constitution. Therefore, it is not a Bill concerning county governments. We need to debate this. Article 204 of the Constitution gives a structure of how these funds can be channelled. It brings in the element of the county governments. When the Hon. Member will be replying, I request him to explain why he says that the Bill does not concern county governments. In my interpretation, this Bill concerns them. If it does, it must go to the Senate to be looked into. When this matter came on the Floor of the House last time, the Senators and county governors threatened to go to court. Hon. Lelelit's Bill wanted to amend this Fund, so that it can be used like the National Government-Constituencies Development Fund (NG-CDF) and goes directly to the constituencies.

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The challenge was that you can go to a specific constituency and you find that a specific ward has been defined as a hardship or marginalised area. So, it does not guarantee that a whole constituency is categorised as a hardship or marginalised area. That is why they said that we should go up to the ward level. What I am happy about is that it has proposed that the funds go through the wards so that we have a local development committee. When we get to the Committee of the whole House, I will move an amendment so that we call it the “Ward Development Committee” instead of calling it the “Local Development Committee”. That is because the area of jurisdiction is a ward. It is good that the local committee we will come up with is called ward committee. The issue that we may debate at a later stage is whether this Bill concerns county governments. That is very critical. I have highlighted Article 204, particularly Sub-Article 3(b). It has clearly said that these funds can be sent to the counties directly or indirectly. The word “counties” is mentioned. The Memorandum of Objects and Reasons of this Bill states that this Bill does not concern county governments. How? It is important. I am very convinced that county governments play a critical role. As such, in the spirit of brotherhood with the two Houses, this Bill should go to the Senate for them to also make a determination.

As we move on the Equalisation Fund, the Public Audit Act requires the Auditor-General to audit all public monies. For the last eight years, I have not seen any report from the Auditor-General that has audited the Equalization Fund. The National Assembly has been appropriating monies to the Equalization Fund in every financial year. Where this money has been going, we do not know. Article 206 of the Constitution says that any public officer who misuses public funds, whether serving or retired must be surcharged. Whoever has been using monies from the Equalization Fund will not run away. There comes a time when he will be held accountable for Kenyans to know where their money has been going.

It is clear in the Constitution that we are talking of 1.5 per cent. It is 1.5 per cent of the recently audited revenue. As we go for 2.5 per cent of NG-CDF, the Equalisation Fund goes for 0.5 per cent. Sorry. When you go further....

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Chachu, you have just walked in and you seem to be very displeased. What is it?

**Hon. Chachu Ganya** (North Horr, FAP): Hon. Temporary Deputy Speaker, Hon. Wamalwa is a good friend of mine. Actually, he is my chairman somewhere. I am standing on a point of order on relevance and facts. Initially, he said we did not pass this Bill in the last Parliament because we could not raise a two-thirds majority. We did and passed it. It went to the Senate, which slept on it. It is a fact.

Secondly, he is saying it is 1.5 per cent of the audited revenues generated by the State. It is 0.5 per cent. It is not 1.5 per cent. Why is he misleading the House on facts? Be accurate, my brother.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): I think that is a point of argument, Hon. Chachu. You will have an opportunity to contribute.

Proceed, Hon. Wamalwa.

*(Hon. Chachu Ganya stood up in his place)*

Hon. Chachu, just hold your horses.

**Hon. (Dr.) Chris Wamalwa** (Kimini, FORD-K): Let me finish. Article 204 (1) of the Constitution says:

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”204 (1) There is established an Equalisation Fund into which shall be paid one half per cent of all the revenue collected by the national government each year calculated on the basis of the most recent audited accounts of revenue received, as approved by the National Assembly.”

That is what I said. I said one half. One half is not a point five.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Chachu, now I get what your point of order was. You were right. Hon. Wamalwa had initially said 1.5 per cent. It is 0.5 per cent. Hon. Chachu has a valid point.

Proceed, it is 0.5 per cent.

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD-K): Exactly. That is why I am now quoting the Constitution. It is 0.5 per cent of the last audited national revenue. This money is so much. The question is where this money has been going. That is especially because the NG-CDF is 2.5 per cent and it is subdivided among all the 290 constituencies. You will see an NG-CDF project wherever you go in this country. It is the only Fund whose effects are felt across the country. If you go to any village in the country, or Hon. Kamket’s constituency, or Turkana County, or Lamu County, you will see NG-CDF projects.

The NG-CDF is a very good model. I also note that the model that Hon. Kamket has proposed has been borrowed from the NG-CDF. My humble request is that we borrow this model from the NG-CDF because it has been tested. It has stood the test of time and it has gone everywhere. It will help if we go that way. But the big challenge, the elephant in the room, is this: When it comes to the Division of Revenue Bill, it divides revenue vertically between the two levels of government. We had a problem with CDF and we had to amend the CDF Act to be part of the national Government revenue share. That is why it was called the NG-CDF. When it comes to the Equalisation Fund, how are you going to treat it? Is it going to come under the horizontal sharing or is it going to be under the vertical sharing? These are the issues we must be able to look into as we move on so that the courts do not mess us up.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Wamalwa, one minute. There is a lot of interest in this.

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD-K): The Division of Revenue Bill is very important and it comes every year. Its essence is to divide the national revenue between two levels of government: the national Government and the county governments. We had CDF. Initially, we tried to position it on its own, but when we went to court the court said that we have only two levels of government, so it could only go under the national Government level. That is why we amended the CDF Act to be the NG-CDF Act. So, we get CDF funds from the portion of the national government allocation. So, when it comes to the Equalisation Fund, as we try to operationalise it, we must try to think further and see. Is it going to come under the national Government allocation or through the county governments’ allocation? My humble request as we move on, Hon. Kamket, is we amend this so that the Bill can also go to the Senate because it involves the counties.

I thank you, Hon. Temporary Deputy Speaker. I support.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Peter Lochakapong, Member for Sigor.

**Hon. Peter Lochakapong** (Sigor, JP): Thank you, Hon. Temporary Deputy Speaker, for this opportunity. I want to, at the outset, start by saying that I support the Bill by Hon. Kamket, the Equalisation Fund Bill, 2019, for about three simple reasons. One, this Bill will seek to

expedite the operationalisation and expenditure of funds so that regions that are marginalised can catch up with the rest of the country that is a bit more developed. So, I want to commend Hon. Kamket for coming up with this Bill.

Since the establishment of this Fund, these funds have been disbursed only once. Whatever was contemplated in Article 204, the impact of it has not been realised in the areas that are considered marginalised. I want to believe that by passing this Bill, we are going to ensure that the Equalisation Fund, through the creation of the National Board, will be able to do the work for which it was envisioned and therefore areas that are marginalised are going to receive these funds as quickly as possible so that they are able to improve services and come to a level where they can also enjoy these services like the rest of Kenya; services like improved roads, improved health facilities, electricity and water.

Remember that at the beginning, just immediately after Independence, certain regions in this country were declared closed districts, for example, West Pokot and because of that, they have been left behind. The framers of this Constitution wanted something that would bring those areas closer to areas that were considered for more at the beginning. But the unfortunate thing is that since the promulgation of the Constitution, these funds have just been disbursed once. Therefore, these areas have not been able to benefit. I want to believe that it is because these funds have been domiciled at the National Treasury. I want to also believe that those at the National Treasury may not feel as those from the marginalised areas.

Hon. Temporary Deputy Speaker that is why they are not very keen to disburse the funds as frequently as possible to the areas that are affected. So, I also support the current policy by the CRA where the lowest unit of consideration of the fund is the sub-location.

Secondly, when we shall have a National Equalisation Fund Board working together with the local committees tasked with identifying projects that will be funded at the ward level, it will speed up projects. That way, areas that are affected will catch up with the rest of Kenya. It is good to consider the lowest level as sub-locations because you are aware that even within counties, we have intra-county marginalisation where certain parts of a county are more marginalised than others. So, by going down to the sub-location level, we are going to identify the areas that are really marginalised. That way, the committees that are tasked at the lower levels or the local level will do a good job and ensure that the areas that are really marginalised are identified.

However, we need to redefine the parameters used to consider what a marginalised area is. We need to clarify what we mean by “other factors.” That is why you see Members want to bring factors such as population density. So, we need to redefine the parameters so that they are as clear as possible for us to know what it is we are looking for, if we are to consider an area as marginalised.

As we move forward, it will be important to note that the Constitution talks about 14 marginalised counties. Other than bringing the sub-locations and wards, we have to look at a way of ensuring that even those counties are not left behind based on the latest review by the CRA. So, enactment of this Bill will reduce bureaucracy that we are currently witnessing from those who are tasked with the management of this fund that is domiciled at the Ministry of Finance and the National Treasury. Passing the Bill will enable marginalised areas to catch up with the rest of Kenyans and enjoy better services such as roads, water, health and electricity.

Hon. Temporary Deputy Speaker, within the teaching fraternity and the public service, we have hardship areas. So, certain officers receive hardship allowance. One problem is that the

thinking of certain people in the Executive who are supposed to either gazette or consider certain areas as hardship are now getting an excuse of saying that with the Equalisation Fund and the NG-CDF all areas in this country should have come to a level where we are all now equal. They may not know that this has not happened.

Last week, as the Departmental Committee on Education and Research, we visited Taita Taveta because of a petition that was presented here. When I engaged with somebody from the Ministry, he was quick to say that he was not a believer of hardship zones. The reason is that we have an Equalisation Fund and the NG-CDF and they should have brought all areas in this country to the same level, which is not the case. As it is now, we have within the Teachers Service Commission areas that are hard to post staff.

So, the faster we use these funds in the marginalised areas so that they catch up with the rest of Kenya, the better for us. Otherwise, thank you and I support.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Let us have Hon. Wangaya.

**Hon. Christopher Wangaya** (Khwisero, ANC): Thank you, Hon. Temporary Deputy Speaker. I rise to oppose this Bill. If lack of access to clean water, quality health care and poor road network are parameters that are used to confirm areas that are marginalised then even Kakamega County and specifically Khwisero where I represent, should also be considered as a marginalised area because we have all those challenges.

We cannot use marginalisation and the Equalisation Bill as a parameter to reward laziness and misuse of Government funds. When you look at the share of the national revenue, the so-called marginalised counties have received the highest allocation since Independence. Also, three-quarters of NGOs in this country operate in those zones. When you look at the share of NG-CDF we receive the same allocation. We do not factor in the issue of population.

People talk about land mass, but are we rewarding idle land which people cannot put into good use or which is being used to graze camels? Let us tell Kenyans the truth. Look at Israel, it is a dry land which is producing. Let us encourage our people in these regions not to use Parliament as a scapegoat to promote their laziness. These people should give birth so that they can get enough human resource to utilise those regions.

Hon. Temporary Deputy Speaker, protect me because they are many and I am alone.

**Hon. Kassait Kamket** (Tiaty, KANU): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Kassait, what is out of order?

**Hon. Kassait Kamket** (Tiaty, KANU): On a point of order, Hon. Temporary Deputy Speaker. I hate to interrupt my friend, Hon. Wangaya Aseka, but he is using improper and un-parliamentary language against the entire region by...

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Kassait, you are absolutely right there are no lazy Kenyans, Hon. Wangaya Aseka. You should withdraw because we are all Kenyans and they may be living in unfavourable circumstances and may need a little leg-up, the way we are doing here. So, you cannot say they are lazy, please withdraw and proceed.

**Hon. Christopher Wangaya** (Khwisero, ANC): Hon. Temporary Deputy Speaker that is true. Lastly, as a House we must encourage our leaders including us to properly use resources allocated to our regions so that they can be at par with other regions.

Thank you, Hon. Temporary Deputy Speaker I oppose.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Wario.

**Hon. Ali Wario** (Bura, JP): Thank you, Hon. Temporary Deputy Speaker for this opportunity. From the outset, I want to congratulate my brother Hon. Kamket for coming up with this Bill because it is timely.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Wario, I have allowed you to have the first say on this debate when it resumes next time. So, you have a balance of nine minutes to make your contribution. Time has caught up with us and there is a balance of one hour and eleven minutes. So, you will have nine minutes as a matter of priority when this is again put down for consideration.

### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, the time being 1.00 p.m., this House stands adjourned until today, Wednesday, 13<sup>th</sup> November 2019, at 2.30 p.m.

The House rose at 1.00 p.m.