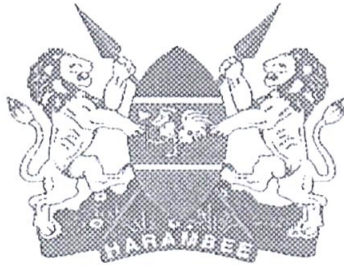




REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY

*Paper laid
by Chair, VAGBSF
on Thursday, November 17, 2016
at 2:30pm with regard to order No. 7.*

[Signature]

TABLE OFFICE
S/No:.....
17 NOV 2016
Sign:.....
PAPER LAID

ELEVENTH PARLIAMENT -- FOURTH SESSION

STATUS REPORT

SELECT COMMITTEE ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND

CLERK'S CHAMBERS

PARLIAMENT BUILDINGS

NAIROBI-KENYA

NOVEMBER, 2016

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A. Status of court cases

Since the enactment of the Kenya Constitution 2010, the National Government Constituencies Development Fund has been faced with two court cases, in quick succession. These have negatively affected the operations of the Fund. The issues and determinations in the two cases are as outlined below;

Case 1. (Petition No. 71 of 2013)

The first case was instituted by the institute of social accountability (TISA) and centre for enhancing democracy and good governance in 2013 against National Assembly, Senate, Attorney General and the then CDF Board. The petitioners sought among other things, whether the Act violated the Division of functions as between the national and County Governments. The court made the ruling on 20th February 2015 which gave the Board one year to align itself to the constitution 2010 culminating to NG-CDF Act 2015. The

Board appealed against the ruling, currently the matter is in the court of appeal and parties are in the process of filing submissions.

Case 2. (Petition No. 178 of 2016)

The petition of May 4, 2016 was instituted by Wanjiru Gikonyo and Cornelius Oduor Opuot against the National Assembly of Kenya, the Senate of the Republic of Kenya, the Honourable Attorney General, National Government Constituency Development Fund Board and Cabinet Secretary, Treasury.

Interested parties includes; the Council of Governors, Charles Agar Owino, Peter Runkin Ouma Onyango and Isabel Nyambura Waiyaki.

Generally, the petitioners argued that like its precursor, the NG-CDF Act, 2015 is unconstitutional.

The court made the following ruling on the preliminary application:

1. Debarred the Cabinet Secretary, National Treasury from releasing to the National Government Constituency Development Fund (NG-CDF) any amount exceeding Kshs. 25,000,000,000.00 during the financial year 2016/2017, pending hearing and disposal of main Petition. This was in the Court's opinion the correct amount equivalent to 2.5% due to NGCDF from the National Government's share of Revenue ;
2. Declined to declare Division of Revenue Act 2016/2017 unconstitutional; and