

**MEMORANDUM ON THE CONSTITUTION OF KENYA AMENDMENT BILL 2022**

**PRESENTED TO THE SENATE SUBMITTED TO:**

**CLERK OF THE SENATE**

**PO BOX 41842-00100, NAIROBI**

**IN THE MATTER OF CONSIDERATION BY THE COMMITTEE ON JUSTICE, LEGAL AFFAIRS AND HUMAN RIGHTS OF THE SENATE: THE CONSTITUTION OF KENYA AMENDMENT BILL 2022**

**JANUARY 2025.**

**SUBMITTED BY:**

**The Kenyan Section of the International Commission of Jurists**

**ICJ Kenya House, Off Silanga Road, Karen P.O. Box 59743-00200, Nairobi, Kenya Office Tel: +254-20-2084836/8 | +254 720 491549 Email:** **info@icj-kenya.org**

**Introduction**

The Kenyan Section of the International Commission of Jurists (ICJ Kenya) is a non-governmental, nonprofit, and member-based organisation whose objectives include development, protection of the rule of law, democracy, governance, promotion human rights, and safeguard of independence of the Judiciary and the legal profession.

ICJ Kenya has reviewed and interrogated the Constitution of Kenya (Amendment) Bill 2022. It submits this memorandum in line with its mandate. This memorandum highlights ICJ Kenya's select views of the proposals included in the Bill.

### **National Government Constituencies Development Fund (NGCDF)**

**Proposed Deduction: 5% of the national government’s share of revenue**

The NGCDF is allocated directly to constituencies, allowing Members of Parliament (MPs) significant influence over local development projects. This allocation undermines the principles of devolution outlined in Articles 174 and 175 of the Constitution, which assign development functions to county governments. Furthermore, the Auditor-General’s reports have consistently highlighted instances of financial mismanagement in the NGCDF, including unsupported expenditures, incomplete projects, and irregular procurement processes.

In the year 2023/2024, the Kenya Revenue Authority (KRA) reported that it collected KES 2.407 trillion for the financial year.[[1]](#footnote-1) In this context, the allocations for the National Government Constituencies Development Fund (NGCDF) were as follows: KES 57.93 billion according to one source[[2]](#footnote-2) and KES 53.5 billion according to another.[[3]](#footnote-3)

Now, consider a hypothetical scenario where the government proposed to allocate 5% of its national revenue to the NGCDF. If we apply this percentage to the KES 2.407 trillion collected, the proposed allocation would amount to KES 120.35 billion.

There already exists a glaring issue of mismanagement stemming from conflicting reports concerning the allocation of the National Government Constituencies Development Fund for the fiscal year 2023/2024. One report indicates that the National Treasury allocated KES 57.93 billion to the NGCDF, while another report claims the allocation was KES 53.5 billion. This inconsistency already raises serious questions regarding fiscal accountability and transparency in the government's budgeting procedures.

The proposal to allocate such a substantial amount to the NGCDF is further complicated by the possibility of overlapping responsibilities with county governments, which are already tasked with similar development initiatives in sectors such as education, health, and infrastructure. This redundancy not only threatens the efficient utilization of resources but also hampers efforts to promote equitable development across different regions.

1. **National Government Affirmative Action Fund (NGAAF)**

**Proposed Deduction: 0.25% of the national government’s share of revenue**

The NGAAF aims to promote affirmative action for marginalized groups. However, its structure overlaps with existing county programs and constitutional mandates under Articles 174 and 175. Allocating 0.25% of the national government’s share of revenue equates to **KES 5 billion** if the national government’s share is **KES 2 trillion**.

Despite its objectives, the NGAAF’s implementation has faced accountability challenges. Reports from the Auditor-General have highlighted issues such as unclear performance metrics and inefficient fund utilization. Instead of creating parallel funds, these resources could be channeled through county governments or the Equalisation Fund[[4]](#footnote-4), which have clearer constitutional mandates to address systemic inequalities. The allocation to NGAAF risks redundancy and inefficiency while failing to guarantee meaningful outcomes for vulnerable groups.

### **Senate Oversight Fund**

**Proposed Deduction: 0.001% of the national government’s share of revenue**

The Senate Oversight Fund is designed to support senators in monitoring devolved funds at the county level. However, this allocation raises concerns about duplication and potential conflicts of interest. Senators are constitutionally mandated to provide oversight under Article 96, and introducing a separate fund risk politicizing oversight functions.

Allocating 0.001% of the national government’s share of revenue equates to **KES 20 million** if the national government’s share is **KES 2 trillion**. While this amount is relatively small, its establishment creates inefficiencies by introducing unnecessary administrative costs. Rather than addressing systemic issues like transparency and capacity-building in existing institutions, the fund risks shifting the focus to politically driven initiatives, undermining equitable development and accountability.

### **Combined Impact**

Together, the NGCDF, NGAAF, and Senate Oversight Fund would require **KES 105.02 billion** annually from the national government’s share of revenue, which represents **5.25%** of the total. This substantial allocation reduces the resources available for high-priority national and county-level initiatives.

Article 203(2) of the Constitution mandates that counties receive **at least 15% of total national revenue**. By creating these overlapping funds, the proposed Bill risks encroaching on this allocation, compromising counties’ ability to perform their constitutional functions efficiently. The proposed funds fail to address persistent accountability concerns and the equitable development of marginalized regions.

The cumulative deductions for these funds undermine the constitutional principles of equitable resource allocation and responsible fiscal management, as outlined in Articles 201 and 202. Reforms should prioritize strengthening existing structures like the Equalisation Fund and county governments to ensure transparent, equitable, and efficient use of public resources.

#### **Critique**

The Constitution of Kenya, 2010, is the supreme law, providing a comprehensive framework for governance, including public finance management. Article 10 establishes public participation, accountability, and transparency as fundamental national ideals, whereas Article 2(1) affirms the supremacy of the Constitution and nullifies any discordant laws. Articles 201, 202, and 203[[5]](#footnote-5) support these ideals by requiring equitable, prudent, and transparent management of public funds. As a legally binding instrument that demands adherence to its provisons, the Constitution is more than just an idealistic document.

The need to follow these guidelines is highlighted by the decision inThe National Government Constituencies Development Fund (NGCDF) Act[[6]](#footnote-6) was ruled unconstitutional because it violated the separation of powers, devolution, and public finance provisions of the constitution. The court concluded that by centralizing powers intended for devolved entities and permitting excessive influence by Members of Parliament on local development, the NGCDF violated Chapter Twelve of the Constitution[[7]](#footnote-7), which regulates the distribution of revenue between the national and county governments. The objectives of devolution, which seek to strengthen local governing systems, were broken by this overlap of tasks, which also diminished accountability and transparency. Additionally, in **Adrian Kamotho Njenga v. Attorney General & Others[[8]](#footnote-8),** the court emphasized that the Constitution must be interpreted holistically, ensuring that every provision reinforces the broader principles of good governance and accountability.

In order to determine equitable revenue sharing, specific criteria are outlined in Article 203(1)[[9]](#footnote-9). These criteria include addressing economic imbalances, promoting development in marginalized areas, and making sure counties are able to carry out their delegated tasks and in a conscious attempt to address past injustices and close developmental inequalities, the Equalization Fund was established by the Article 204 of the Constitution[[10]](#footnote-10). The necessity of using resources wisely to prevent future generations from bearing the costs of careless governance is further highlighted by the **intergenerational equity concept,** which is codified in Article 201(c)[[11]](#footnote-11).

Scholarly analyses, such as those by **Mutakha Kangu in Constitutional Law of Kenya on Devolution[[12]](#footnote-12),** emphasize that fiscal frameworks need to address present inequalities while giving priority to long-term sustainability. **Yash Ghai and Jill Cottrell Ghai in Kenya’s Constitution: An Instrument for Change**, highlight that the Constitution’s provisions on public finance are not merely aspirational but are enforceable safeguards designed to prevent the misuse of public resources. Any amendment that undermines these safeguards erodes public trust and diminishes the Constitution’s authority as a democratic instrument. Similarly, in his book titled "**Public Finance under Kenya’s New Constitution," Kirira** emphasizes that leaders must ensure that public resources are used responsibly and transparently to foster trust and accountability among citizens. This statement highlights the necessity for leaders to manage public finances with integrity and transparency to maintain public trust.[[13]](#footnote-13)

Kenya has ratified a number of international instruments that promote transparency, accountability, equitable resource allocation, and public participation in governance. Individuals' rights to equitable access to resources and participation in governance are emphasized in Articles **13 and 21 of the African Charter on Human and Peoples' Rights**.[[14]](#footnote-14) These clauses emphasize the value of equity and inclusivity in the administration of public funds. Kenya is also required by the **United Nations Convention Against Corruption (UNCAC)** to implement accountable and transparent public finance systems. To prevent corruption and resource mismanagement, **UNCAC's Articles 5 and 9** specifically demand robust financial oversight mechanisms and participatory processes to combat corruption and mismanagement of resources.[[15]](#footnote-15) **The International Covenant on Economic, Social, and Cultural Rights (ICESCR**), which upholds these commitments through **Article 2(1)**, which mandates that nations use resources fairly in order to gradually fulfill economic and social rights. **Article 13** further highlights how crucial participatory governance is when making decisions that impact the distribution of resources.[[16]](#footnote-16) Kenya is required to build inclusive and accountable institutions and encourage participatory decision-making processes in order to fulfill its commitments under the **Sustainable Development Goals (SDGs)**, specifically **Goal 16**.[[17]](#footnote-17)

1. **Fiscal Accountability and the Viability of Proposed Development Funds**

The proposed amendment to establish three new funds—the National Government Constituency Development Fund (NGCDF), the National Government Affirmative Action Fund (NGAAF), and the Senate Oversight Fund—raises significant concerns regarding fiscal prudence, efficiency, and accountability. By establishing parallel structures that duplicate the NGCDF's shortcomings, the proposed amendment bill has similar shortcomings and runs the danger of causing the same problems. Dividing the NGCDF structure into three separate funds in an attempt to address governance issues ignores the fundamental constitutional violations. Rather, it exacerbates inefficiencies, overlaps responsibilities, and weakens accountability mechanisms.

There has been a lot of criticism about the National Government Constituencies Development Fund, especially in relation to its recent amendments and the allocations made over time. The government allocated the NGCDF **KSh 53.5 billion** in the fiscal year **2023–2024**, a **21%** increase over the **KSh 44.3** billion given the year before.[[18]](#footnote-18) This rise shows a continued dedication to local development projects; historically, the fund has supported a range of programs, such as infrastructure, health, and education.

There are a number of inconsistencies and instances of poor administration in different constituencies, according to the **Auditor-General's Report on the National Government Constituencies Development Fund for the fiscal year that concluded on June 30, 2023**. Reports from constituencies including **Nyaribari Masaba, Wajir East,** and **West Mugirango** have flagged issues like unfinished projects, unaccounted funds, and lack of proper documentation for expenditures. **KSh 57 billion** was set aside expressly for bursaries that benefited about **6 million students** between **2017 and 2022 alone.**[[19]](#footnote-19) Despite these numbers, concerns about poor management and inefficient use of funds have been repeatedly brought up in auditor reports. According to reports, a sizable portion of NGCDF-financed projects encounter delays or fall short of adequately addressing community requirements.

In recent audits, the Auditor-General has noted that a significant portion of the **KSh 53.5 billion** allocated to the NGCDF in the financial year **2023/24** has not been utilized effectively. For example, it was reported that about **30%** of funds allocated for bursaries were mismanaged, with allegations of favoritism and corruption in disbursing these funds to students.

The proposal to introduce three separate funds ostensibly aims to address specific developmental and oversight needs. But in the absence of guidelines and robust oversight structures this disarray might make already difficult issues worse. The establishment of several funds may result in mission overlap, higher administrative expenses, and even more accountability dilution. Further, the inefficiencies and poor administration seen in the NGCDF run the risk of spreading to the new funds if the underlying issues noted in Auditor-General reports are not addressed.

1. **Lessons from Katiba Institute v. National Government Constituencies Development Fund Board & Others[[20]](#footnote-20)**
2. **Conflict with Devolution Framework**

Devolution is one of the main principles of the 2010 Kenyan Constitution. Devolution is established under **Article 174** as a means of empowering local governments to promote self-governance, equitable development, and efficient service delivery. By distributing funds directly to constituencies governed by Members of Parliament (MPs), the NGCDF essentially usurped the functions of county governments, as determined by the court in Katiba Institute.

**Replicating the Problem:** By allocating national funding to entities under the control of legislators, the proposed amendment produces a similar circumstance. These funds parallel the development functions such as infrastructure, agriculture, and health that are constitutionally delegated to counties under the Fourth Schedule. By fragmenting responsibilities, this duplication not only leads to disputes between the two tiers of government but also reduces the efficiency of resource distribution.

**Weakening Local Authority:** In contrast to the constitutional goals of promoting local decision making and resolving regional imbalances, the amendment weakens the autonomy and authority of county governments by centralizing management of development funding at the federal level. By allowing the national government to oversee local development functions which are constitutionally reserved for county governments under Article 174[[21]](#footnote-21), the NGCDF Act compromised devolution. By establishing multiple national funds that impede the functional autonomy of county governments, the proposed amendment as earlier stated duplicates this problem. The amendment circumvents county governments by giving funds to MPs and Senators directly through NGCDF and NGAAF, hence reducing their involvement in development project design and execution. This goes against the **subsidiarity principle**, which states that decisions must be made at the most localized and effective level.

1. **Contravention of Public Finance Principle**s

Public finance must be managed transparently, equitably, and prudently to promote accountability and equitable development according to the principles of public finance, which are contained in **Articles 201, 202, and 203 of the Constitution**[[22]](#footnote-22). The court emphasized how NGCDF operations went against fundamental principles, and the proposed Bill has comparable problems.

**Equity Concerns**: Article 201(b) requires that resources be distributed fairly, with Articles 203(1)(g) and 204[[23]](#footnote-23) providing additional provisions for underserved communities and regions. However, the Senate Oversight Fund, NGAAF, and NGCDF place an excessive amount of emphasis on political regions and constituencies, frequently giving preference to politically powerful areas over underserved ones. The Equalisation Fund's goal of resolving structural disparities in the delivery of essential services is compromised by this.

**Accountability Failures**: Unsupported expenses, unfinished projects, and irregular procurement practices have all been mentioned in Auditor-General reports as examples of poor management in NGCDF operations. Financial mismanagement could worsen if more monies are allocated to comparable funds without first resolving these accountability concerns.

**Resource Fragmentation:** The Bill's creation of three distinct funds runs the danger of reducing the effect of resource distribution. Dividing funds across several entities limits the amount available for high-priority development projects and leads to inefficiency due to overlapping administrative costs when national revenue is limited.

1. **Erosion of Separation of Powers**

To encourage checks and balances and avoid conflicts of interest, the Constitution places a strong emphasis on the distinct separation of powers between the Executive, Legislature, and Judiciary. The court ruled that by granting MPs an executive role in overseeing development projects, NGCDF compromised this separation of powers.

**Legislators as Executives**: The Bill continues the unconstitutional blurring of roles by giving MPs and Senators authority over NGCDF, NGAAF, and the Senate Oversight Fund. Legislators are tasked with carrying out development initiatives, which leads to conflicts of interest and chances for political patronage. Their is primary mandate is lawmaking and oversight.

**Accountability Loophol**e: The lack of impartial oversight procedures for these monies permits lawmakers to function without adequate scrutiny, raising the possibility of corruption and misappropriation of public funds. The accountability and transparency tenets of Article 10 are compromised.

1. **Implications for Marginalized Communities**

The needs of marginalized areas, as mandated by **Article 204** of the Constitution[[24]](#footnote-24), are not sufficiently addressed by the proposed funding. According to Auditor-General reports, the Equalization Fund, which was created to address systematic inequalities in access to essential services, has encountered several difficulties, such as underutilization and inadequate administration. Instead of strengthening these constitutional institutions, the Bill reroutes funds to politically motivated projects that don't specifically target underserved areas.[[25]](#footnote-25)[[26]](#footnote-26)

The Bill puts political priorities ahead of equitable development by giving lawmakers control over this money. By ignoring populations that need immediate attention and favoring politically powerful places disproportionately, this strategy runs the risk of escalating already-existing disparities.

1. **Vague Language**

The bill's language is extremely ambiguous, which compromises its ability to enforce the 2010 Kenyan Constitution's tenets of accountability, transparency, and equity. The efficacy of public financial management is jeopardized by vague and unclear phrases and a lack of definition in important clauses.

A significant issue with the Bill is that it omits important definitions for terminology like **"development projects," "empowerment,"** and **"oversight."** These terms are pivotal to determining the scope and application of the National Government Constituencies Development Fund (NGCDF), National Government Affirmative Action Fund (NGAAF), and Senate Oversight Fund. However, their ambiguous nature risks allowing discretionary and politically motivated interpretations.

The Bill's specified oversight mechanisms provide another problem. Although it gives authorities to create administrative rules for fund administration, it doesn't specify specific rules or minimal requirements to guide these rules. Inconsistencies between counties and constituencies could result from an over-reliance on administrative discretion. In **Institute of Social Accountability (TISA) & Others v. National Assembly & 4 Others 2015[[27]](#footnote-27)** brought to light the hazards of having too much administrative discretion, pointing out that imprecise frameworks may result in inconsistent and unaccountable resource distribution. The proposed funds are susceptible to political meddling and poor management in the absence of defined guidelines.

Additionally, the Bill does not specify penalties for noncompliance, such as financial mismanagement, noncompliance with reporting requirements, or violations of constitutional principles.

The values of equity and fairness stated in Articles 203 and 204 of the Constitution[[28]](#footnote-28) are compromised by the absence of specific **allocation criteria.** Poor management and underutilization have already caused problems for the Equalisation Fund, which was created to alleviate imbalances in underserved communities. The Bill runs the danger of exacerbating inequality by neglecting to incorporate these factors into the new funds. In **Adrian Kamotho Njenga v. Council of Governors & Others (2020)**[[29]](#footnote-29), the court's ruling reiterated the necessity of budgetary frameworks that give priority to underserved groups and make sure that resource distribution complies with constitutional requirements.

Lastly, the Bill's ambiguous wording reduces the impact of its declared goals. The Bill makes it challenging to track developments and assess the effects of the proposed funds by omitting precise success criteria or quantifiable results. In the book, **Guidelines on Democratic Lawmaking for Better Laws, published by the OSCE Office for Democratic Institutions and Human Rights (ODIHR), i**t is stated that "**the quality of laws is intrinsically linked to the process that led to their adoption, and a lack of clarity and precision in legislative frameworks risks undermining the rule of law and public trust in governance.”[[30]](#footnote-30)**

**Applicable Case Law**

The case of **Council of Governors & 47 Others v. Attorney General & Another (2020)**[[31]](#footnote-31) underscores the constitutional requirement for clear distinctions between national and county functions. The court ruled that funds for devolved functions must be channeled through county governments to prevent duplication and inefficiencies. The proposed funds under the Bill risk violating this principle by reallocating resources to MPs and Senators for functions that overlap with those of county governments. This duplication could lead to confusion, inefficiencies, and a dilution of devolution’s intended benefits.

In the case of **Gikonyo & another v National Assembly of Kenya & 4 others[[32]](#footnote-32),** the High Court held that the constituency is not a unit of service delivery. The creation of the constituency as a service delivery unit leads to multiple channels of funding and implementation of projects, wastage of public resources and lack of clarity. All these undermine the principle of devolution and the architecture of the Constitution on the two levels of government, separation of powers and the primary oversight role of Parliament. By creating a fund that is administered by the Constituency, which is a unit of political representation for legislative and oversight roles, however far removed, the Member of the National Assembly may be, in the management and administration of the Fund, runs afoul the doctrine of separation of powers

**Conclusion**

ICJ-Kenya remains committed to promoting constitutional governance, transparency, and equity. The proposed amendment Bill, which introduces the NGCDF, NGAAF, and Senate Oversight Fund, poses a threat to these principles by reinforcing structural inefficiencies, unequal resource distribution, and inadequate accountability.

The NGCDF has faced longstanding criticism for its mismanagement, as demonstrated in the case of **Katiba Institute v. National Government Constituencies Development Fund Board & Others.** The proposed Bill replicates this flawed model without addressing its underlying issues. The introduction of the NGAAF and Senate Oversight Fund further complicates the situation, channeling resources into politically influenced entities at the detriment of underprivileged regions and effective resource management.

Reports from the Auditor-General reveal ongoing irregularities that the Bill does not rectify, thereby increasing the risk of continued misappropriation of public funds. The ambiguous language of the Bill and its duplication of devolved functions violate Articles 201 and 203 of the Constitution, which mandate transparency, equity, and accountability in the management of public finances. Without significant reforms to prioritize marginalized communities, streamlining administration, and enforcing accountability, the proposed funds could undermine public trust and exacerbate inequalities.

Therefore, ICJ-Kenya firmly rejects the proposed Bill in its entirety, as it undermines the constitutional principles of equity, accountability, and efficient use of public resources. We call for a thorough reassessment to ensure that any legislative initiative aligns with the Constitution and genuinely serves the common good, rather than being driven by political expediency. Public funds must be utilized transparently and effectively to address the pressing needs of marginalized communities, not to create redundant structures that dilute accountability and foster inefficiencies.

1. <https://www.the-star.co.ke/news/2024-07-08-kra-collects-sh24-trillion-in-revenue-for-financial-year-2023-24> [↑](#footnote-ref-1)
2. <https://www.treasury.go.ke/prof-ndungu-underscores-the-importance-cdf-in-development/> [↑](#footnote-ref-2)
3. <https://www.planning.go.ke/induction-of-the-national-government-constituencies-development-fund-ng-cdf-board-mombasa-26th-october-2023/> [↑](#footnote-ref-3)
4. Article 204 of the Constitution of Kenya 2010 [↑](#footnote-ref-4)
5. The Constitution of Kenya 2010 [↑](#footnote-ref-5)
6. Kenya Law [https://new.kenyalaw.org/akn/ke/act/2015/30/eng@2023-12-29](https://new.kenyalaw.org/akn/ke/act/2015/30/eng%402023-12-29) [↑](#footnote-ref-6)
7. The Constitution of Kenya 2010 [↑](#footnote-ref-7)
8. [2020] KEHC 9228 (KLR) [↑](#footnote-ref-8)
9. Constitution of Kenya 2010 [↑](#footnote-ref-9)
10. The Constitution of Kenya 2010 [↑](#footnote-ref-10)
11. Ibid [↑](#footnote-ref-11)
12. #  Review of John Mutakha Kangu's Constitutional Law of Kenya on Devolution (Strathmore University Press, Nairobi, 2015) S*trathmore Law Journal, Vol. 2, No. 1 (2016) 213-220*

 [↑](#footnote-ref-12)
13. Kirira, N. (2011). *Public Finance under Kenya’s New Constitution*. Society for International Development (SID). Available at: [Public Finance under Kenya’s New Constitution](https://constitutionnet.org/sites/default/files/public_finance_under_kenya_new_constitution-wp5.pdf).
 [↑](#footnote-ref-13)
14. African Charter on Human and Peoples' Rights. Available at: [African Union](https://au.int/en/treaties/african-charter-human-and-peoples-rights). [↑](#footnote-ref-14)
15. United Nations Convention Against Corruption (UNCAC). Available at: [UNODC](https://www.unodc.org/unodc/en/corruption/convention.html). [↑](#footnote-ref-15)
16. International Covenant on Economic, Social and Cultural Rights (ICESCR). Available at: [OHCHR](https://www.ohchr.org/en/instruments-mechanisms/international-human-rights-instruments/international-covenant-economic-social-and-cultural-rights). [↑](#footnote-ref-16)
17. United Nations. (n.d.). *Sustainable Development Goals | The United Nations in Kenya*. Retrieved January 17, 2025, from [UN Kenya](https://kenya.un.org/en/sdgs). [↑](#footnote-ref-17)
18. National Government Constituencies Development Fund (NGCDF) Act. (2023). Available at: [Kenya Law](https://new.kenyalaw.org/akn/ke/act/2015/30/eng%402023-12-29). [↑](#footnote-ref-18)
19. Auditor-General's Report on the National Government Constituencies Development Fund (2023). [NGCDF Official Website](https://ngcdf.go.ke/about-us/). [↑](#footnote-ref-19)
20. [2021] KEHC 442 (KLR) [↑](#footnote-ref-20)
21. Ibid [↑](#footnote-ref-21)
22. The Constitution of Kenya 2010 [↑](#footnote-ref-22)
23. Ibid [↑](#footnote-ref-23)
24. Constitution of Kenya 2010 [↑](#footnote-ref-24)
25. KIPPRA. (2023). *Enhancing the Implementation of the Equalization Fund in Kenya*. [KIPPRA](https://kippra.or.ke/enhancing-the-implementation-of-the-equalization-fund-in-kenya/). [↑](#footnote-ref-25)
26. Equalization Fund Advisory Board. (2021). *Mandate*. Available at: [Equalization Fund](https://equalizationfund.go.ke/mandate). [↑](#footnote-ref-26)
27. [[2015] KEHC 6975 (KLR)](https://new.kenyalaw.org/akn/ke/judgment/kehc/2015/6975/eng%402015-02-20) [↑](#footnote-ref-27)
28. The Constitution of Kenya 2010 [↑](#footnote-ref-28)
29. [[2020] KEELC 3929 (KLR)](https://new.kenyalaw.org/akn/ke/judgment/keelc/2020/3929/eng%402020-01-16) [↑](#footnote-ref-29)
30. OSCE Office for Democratic Institutions and Human Rights. (2023). *Guidelines on Democratic Lawmaking for Better Laws*. [OSCE](https://www.osce.org/files/f/documents/a/3/558321_3.pdf). [↑](#footnote-ref-30)
31. [[2020] KESC 65 (KLR)](https://new.kenyalaw.org/akn/ke/judgment/kesc/2020/65/eng%402020-05-15) [↑](#footnote-ref-31)
32. [[2024] KEHC 10886 (KLR)](https://new.kenyalaw.org/akn/ke/judgment/kehc/2024/10886/eng%402024-09-20) [↑](#footnote-ref-32)