

**REPUBLIC OF KENYA**  
**MACHAKOS COUNTY ASSEMBLY**  
**OFFICIAL REPORT**

**Wednesday, 16th October, 2019**

**Special Sitting**

*(Convened via Kenya Gazette Notice (Special Issue)  
No. 9817 of 15<sup>th</sup> October, 2019)*

The House met at 10.38 a.m.

*[The Speaker (Hon. (Mrs.) Mwangangi) in the Chair]*

**PRAYERS**

**Hon. Speaker:** Good Morning, Hon. Members. I welcome you to this sitting and I call the Clerk Assistant that we start the Order Paper.

**COMMUNICATIONS FROM THE CHAIR**

Hon. Members, I have the following communications:

**CIRCUMSTANCES OCCASIONING THE SPECIAL SITTING OF THE ASSEMBLY ON  
WEDNESDAY 16TH OCTOBER, 2019**

**Hon. Speaker:** This is a special sitting informed by the Standing Orders of this Assembly 26(1) and (2) and Hon. Members, I do not need to go through what is written on that Order; you have the Standing Orders you refer to them. I will go to the next paragraph of that communication which is that Article 257(1) of the Constitution which provides that an amendment to the Constitution may be proposed by a popular initiative signed by at least one million registered voters.

In addition, Article 257(4) of the constitution provides that the promoters of a popular initiative shall deliver the draft Bill and the supporting signatures to the Independent Electoral and Boundaries Commission, which shall verify that the initiative is supported by at least one million registered voters.

Article 257(5) of the Constitution requires the Independent Electoral and Boundaries Commission (IEBC) to submit the draft Bill to each County Assembly for consideration within

three months after the date it was submitted by the Commission if satisfied that the initiative meets the requirements of Article 257.

Hon. Members, pursuant to those provisions of the Constitution, the IEBC submitted to this Assembly the Punguza Mizigo (Constitution of Kenya Amendment) Bill, 2019 on 22<sup>nd</sup> July, 2019. Hon. Members, as I indicated earlier, the Assembly is supposed to process that Bill within three months. The Bill, when it was presented to the Assembly, was committed to a Joint Committee of Justice and Legal Affairs Committee and Devolution and Intergovernmental Relations Committee and Devolution for purposes of processing.

Hon. Members, that Committee facilitated public participation because that is the requirement of the Constitution and that included also requesting the promoter of the Bill, Dr. Ekuru Aukot to come to the Assembly and he honoured the request so that he was here on the 7th October, 2019 and on 8th October, 2019, the committee did public participation on all the eight sub-counties of this county.

Hon. Members, the office of the Speaker and the offices of the Majority and Minority Party Leaders, noted that the deadline for processing the Bill would have fallen on a day when this Assembly is still in recess. Remember the month of October as per the calendar of the House, the House is on recess.

So that required a calling for this special sitting and it was done through Gazette Notice (Special Issue) No. 9817 dated 15th October, 2019 in consultation with the offices of Majority and Minority Leaders.

Hon. Members, further, Standing Order 26 (4) of this House provides that whenever the House meets for a special sitting under paragraph (1), the Speaker shall specify the business to be transacted on the day or days appointed and the business so specified shall be the only business that is to be transacted in the special sitting.

So as per the Gazette Notice which was facilitated on the consultation of the Speaker and Majority and Minority Leaders of this House, the business to be transacted in this special sitting is as follows:

1. Consideration of the Punguza Mizigo (Constitution of Kenya Amendment) Bill, 2019;
2. The Machakos County Health Services Bill, 2019 (Kenya Gazette Supplement No. 9 (Machakos County Bill No. 4);
3. The Machakos County Village Polytechnic Bill, 2019 (Kenya Gazette Supplement No. 8 (Machakos County Bill No. 3);
4. The Machakos County Co-operative Enterprise Development Fund Bill, 2019 (Kenya Gazette Supplement No. 10) (Machakos County Bill No. 5); and as per the gazette notice,
5. Any other business that may be considered pursuant to Standing Order 151(5)(d), (e) and (f) of the House Standing Orders.

Hon. Members, I have further communication as follows:

OBSERVATION OF DEBATE ON THE PUNGUZA MIZIGO (CONSTITUTIONAL AMMENDMENT) BILL, 2019 BY ELECTION OBSERVATION GROUP (ELOG)

Hon. Members, the office of the Speaker received a letter from the Elections Observation Group (ELOG) requesting to be allowed to observe the debate on the Punguza Mizigo (Constitutional Amendment) Bill 2019.

That effort is part of a process to safeguard the integrity of electoral processes including referenda. In doing this, the Group which we commend highly has been given the green light by the Independent Electoral and Boundaries Commission (IEBC) to be able to participate in the observation.

That group requested to be accredited by the Assembly that it may sit in the gallery to participate in the process of processing that Bill and if there are any members of ELOG in the gallery; they requested to be allowed and we allowed them. In the gallery we also have other members of public and the press, who are interested in noting what you are doing in processing this Bill. That is line with the provisions of transparency and public participation as required under the Constitution.

Among the persons we have in the gallery we have Christopher Munyasya, who resides in the UK and who is fortunately a son of one of our Members, Hon. Angela Munyasya; we congratulate you for having your son be interested the processes of this Assembly and he is accompanied by Christine Kitale. You are very much welcome to watch what happens in the processes of this Assembly and I also welcome the other members of the public and press who are seated in the gallery to watch what this special sitting is all about.

#### FIRST READING OF THREE BILLS

Hon. Members, the three Bills which are the Order Paper have been published pursuant to Section 23 of the County Governments Act, 2012 and are ready for the first reading.

It is necessary that this communication comes under communication by the Speaker so that you can be aware that the Bills are ready for processing by you.

The Bills are:

The Machakos County Village Polytechnic Bill, 2019;

The Machakos County Health Services Bill, 2019; and

The Machakos County Co-operative Enterprise Development Fund Bill, 2019.

Hon. Members, I want to urge and encourage you to bring more draft Bills and I just want to draw your attention to areas that are in need of your urgent attention by way of legislation. You need to come up with a Bill so that you can result in to having a county law and that is allowable, that is going to regulate and guide the extraction of mineral resources in your county.

We are very rich in mineral resources and it is very important that you tap into that resource so that whatever comes out of those resources goes to the benefit of the people you represent and secondly that the processes are done in a way that protects the environment because you must do that extraction of mineral resources which includes sand, I know you have a Sand Act, but it is still wanting particularly because of the changes that have been so far.

You also have a lot of quarries, you have soils that are fertile; perhaps you may also think of exporting soils to those who do not have rich soils as you do. So it is very important that you think urgently of legislation to address that need.

Secondly, you need to come up with a county law that is going to facilitate the establishment of a Ward Development Fund. That is the way to go now. We have been following the legislation of that law through the National Parliament but it is taking a lot time and I have

noted that a county like Uasin Gishu passed theirs and it was approved by the Controller of Budget and now they are drawing money for ward Development courtesy of their Ward Development Fund Act. Come up with one as soon as possible.

*(Applause)*

Hon. Members, any other matter because you are the ones who are everyday in contact with the people you represent, please any Bills that you want to be passed as laws to address the needs of your people which you know very well.

#### THE MACHAKOS COUNTY FINANCE BILL, 2019

Hon. Members, Section 132 (1) and (2) of the Public Finance Management Act, 2012 provides that the County Executive Member for Finance shall, with the approval of the County Executive Committee, make a pronouncement of the revenue raising measures for the County Government each Financial year and on the same date submit to the County Assembly, the County Finance Bill, setting out the revenue raising measures for the County Government, together with a policy statement expounding on those measures.

Pursuant to that provision, the Executive Committee Member for Finance made a pronouncement of revenue raising measures on 25<sup>th</sup> June, 2019 in this Assembly. However, he delayed submission of the Finance Bill; it was supposed to be done simultaneously with the pronouncements of those policy measures.

Then on 30<sup>th</sup> September, 2019 at a time when the Assembly had gone for adjournment for the CASA games, the office of the Speaker received the Finance Bill 2019 from the CEC Member for finance.

Hon. Members, that was the last day for the Assembly to consider and approve that Bill because it is supposed to be considered and approved by 30<sup>th</sup> September so that taxes start being collected on the basis of that Bill and notice it is coming on the last day when you are supposed to have passed it.

Nevertheless, I have used the discretion under Standing Order 1 to communicate on this Bill because you still need to process it urgently so that the County Government is able to raise funds through that Bill after you enact it as a law.

Consequently, Hon. Members, I commit that Bill to the Finance and Revenue Collection Committee for facilitation of its publication and I would urge Hon. Stephen Mwanthi, the chairperson of that committee, to do all you can to fast track the processing of that Bill. I guess you know what it means; we do not have a law now for collecting taxes in the County.

#### SUPPLEMENTARY BUDGET ESTIMATES FOR THE FINANCIAL YEAR 2019/2020

Hon. Members, Section 135(2) of the Public Finance Management Act provides that, a County Government shall submit a supplementary budget in support of the additional expenditure for authority for spending to the County Assembly. Pursuant to this provision of the Public Finance Management (PFM) Act, the Executive Committee Member for Finance and Economic Planning submitted Supplementary Budget estimates for the FY 2019/2020 to the Assembly on 9<sup>th</sup> October, 2019.

Again, I used the powers that are bestowed upon the office of the Speaker under Standing Order 1 of your Orders to communicate this aspect to you in this Special Sitting so that the relevant committee can start taking the necessary actions towards processing the supplementary budget and of course in consultation with the House leadership.

So, consequently, the Supplementary Budget Estimates is hereby committed to the Budget and Appropriations Committee pursuant to Standing Order 186(3) to do the necessary. Thank you, Hon. Members. Mr. Clerk, proceed.

### **PAPER LAID**

**Hon. Speaker:** Hon. Members, we have one business as listed in the appendix by Hon. Moffat Maitha.

#### **REPORT ON CONSIDERATION OF PUNGUZA MIZIGO (CONSTITUTION OF KENYA AMENDMENT) BILL 2019**

**Hon. Maitha:** Thank you, Hon. Speaker. Hon Speaker, I wish to lay the following Paper on the Table of the Assembly today Wednesday the 16<sup>th</sup> day of October, 2019; the report of Joint Committee on Justice and Legal Affairs and Devolution and Intergovernmental Relations on consideration of the Punguza Mizigo (Constitution of Kenya Amendment) Bill, 2019. Thank you Hon. Speaker.

**Hon. Speaker:** Thank you, Hon Moffat Maitha. Mr. Clerk, proceed.

### **NOTICE OF MOTION**

#### **REPORT ON CONSIDERATION OF PUNGUZA MIZIGO (CONSTITUTION OF KENYA AMENDMENT) BILL 2019**

**Hon. Speaker:** Hon. Members, we have one business by the same Hon. Moffat Maitha.

**Hon. Maitha:**

Hon. Speaker, that aware that the preamble to the Kenya Constitution recognizes that the Kenyan people adopted, enacted and gave the Constitution to themselves and to their future generations and aware that Article 1(1),(2) and (4)(a) and (b) of the Constitution recognizes that all sovereign power belongs to the Kenya people and can only be exercised directly or through democratically elected representatives at the National level or at the County level;

Aware that Article 257 of the Constitution provides for the amendment of the Constitution through popular initiative and aware that pursuant to the provisions of Article 257(5) of the Constitution, the Independent Electoral and Boundaries Commission (IEBC) vide a letter Ref: IEBC/VREO/2/98, dated 18<sup>th</sup> July, 2019 submitted the draft Bill on Punguza Mizigo (Constitution of Kenya Amendment) Bill, 2019 and received by the County Assembly of Machakos on the 22<sup>nd</sup> July, 2019 and the matter was committed to the Joint Committee on Justice and Legal Affairs and Devolution and Intergovernmental Relations to consider the Bill and

report the committee's findings on or before 22<sup>nd</sup> October, 2019 as per the Assembly Standing Orders;

Further aware that on 8<sup>th</sup> October 2019, the County Assembly of Machakos facilitated public participation in all eight sub-counties pursuant to the provisions of Article 196(1)(a) and (b) which provides that "a County Assembly shall conduct their business in an open manner, and hold its sittings and those of its committees in public" and incorporated the public views in making determination on the Bill;

Madam Speaker, pursuant to Article 257(5) and (6) of the Constitution, I wish to give notice of the motion that this Hon. House discusses and approves the report of Joint Committee on Justice and Legal Affairs and Devolution and Intergovernmental Relations on the Punguza Mizigo (Constitution of Kenya Amendment) Bill 2019.

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you very much, Hon. Maitha. Mr. Clerk, proceed.

### **BILLS**

*(First Readings)*

The Machakos County Village Polytechnic Bill, 2019 (Bill No. 3 of 2019)

The Machakos County Health Services Bill, 2019 (Bill No. 4 of 2019)

The Machakos County Co-operative Enterprise Development Fund Bill, 2019 (Bill No. 5 of 2019)

*(Orders for First Readings read - Read the First Time and ordered to be referred to the relevant Sectoral Committees)*

**Hon. Speaker:** Thank you, Hon. Members. We proceed to the next Order, Mr. Clerk.

### **MOTION**

REPORT ON CONSIDERATION OF PUNGUZA MIZIGO (CONSTITUTION OF KENYA AMENDMENT) BILL 2019

**Hon. Speaker:** Hon. Members we have one business by Hon. Moffat Maitha. And Hon. Members, just to remind you that ordinarily we do not move the motion on the same day that the notice is given on the same sitting but because this being a Special Sitting and because of the special nature of the business the House is transacting, with the leave of the House, the Hon. Maitha is going to do everything that appertains to the processing of the Punguza Mizigo Bill in this one sitting. Proceed, Hon. Maitha.

*(Applause)*

**Hon. Maitha:** Thank you, Madam Speaker.

Madam Speaker, that aware that the Preamble to the Kenya Constitution recognizes that the Kenyan people adopted, enacted and gave the constitution to themselves and to their future generations and aware that Article 1(1),(2) and (4)(a) and (b) of the Constitution recognizes that all sovereign power belongs to the Kenya people and can only be exercised directly or through democratically elected representative at the National level or at the County Level.

Aware that Article 257 of the Constitution provides for the amendment of the Constitution through popular initiative and that aware that Pursuant to the provisions of Article 257(5) of the Constitution, the Independent Electoral and Boundaries Commission (IEBC) vide a letter Ref: IEBC/VREO/2/98, dated 18<sup>th</sup> July, 2019 submitted the draft bill on Punguza Mizigo (Constitution of Kenya Amendment) Bill, 2019 and received by the County Assembly of Machakos on the 22<sup>nd</sup> July 2019 and the matter was committed to the Joint Committee on Justice and Legal Affairs and Devolution and Intergovernmental Relations to consider the Bill and report the committee findings on or before 22<sup>nd</sup> October, 2019 as per the Assembly Standing Orders.

Further aware that on 8<sup>th</sup> October 2019, the County Assembly of Machakos facilitated public participation in all eight sub-counties pursuant to the provisions of Article 196(1) (a) and (b) which provides that “a County Assembly shall conduct their business in an open manner, and hold its sittings and those of its committees in public” and incorporated the public views in making determination on the Bill;

Madam Speaker, pursuant to Article 257(5) and (6) of the Constitution, I wish to move the motion that this Hon. House discusses and approves the report of Joint Committee on Justice and Legal Affairs and Devolution and Intergovernmental Relations on the Punguza Mizigo (Constitution of Kenya Amendment) Bill 2019.

I wish to request Hon. Jeremiah Munguti to second the motion.

**Hon. Speaker:** Thank you, Hon. Maitha. Hon. Jeremiah Munguti.

**Hon. Munguti:** Thank you, Madam Speaker. I second the motion.

**Hon. Speaker:** Thank you, Hon. Jeremiah. Hon. Maitha, the floor is still yours.

**Hon. Maitha:** Thank you, Madam Speaker. I would wish to go to the report of the Joint committee.

### *1.0 PREAMBLE*

Hon. Speaker, the County Assembly of Machakos is established under Article 176(1) of the Constitution. Article 185(1) and (2) of the Constitution sets out the legislative power of County Assemblies.

Article 257 of the Constitution provides for the amendment of the Constitution through popular initiative. Pursuant to Article 257(5) of the Constitution, the Independent Electoral and Boundaries Commission (IEBC) vide a letter dated 18<sup>th</sup> July, 2019 and received by the Assembly on the 22<sup>nd</sup> July, 2019, forwarded the Punguza Mizigo (Constitution of Kenya Amendment) Bill, 2019 to the Assembly.

### 1.1 BACKGROUND

Hon. Speaker, by a letter dated 18<sup>th</sup> July, 2019 Ref: IEBC/VREO/2/98, the Speaker of the County Assembly of Machakos received a letter from the Chairperson of the IEBC as relates to the transmission of the Punguza Mizigo (Constitutional Amendment) Bill, 2019 to the County Assembly. The contents of the said letter were that:

- (a) IEBC had received a draft Bill from Third Way Party Alliance seeking to amend the Constitution by popular initiative;
- (b) IEBC verified that the initiative was in conformity with Article 257(4) as it was supported by at least one million registered voters; and
- (c) County Assemblies are required to consider the Bill within three months from the date of receipt of the Bill and in conformity with Article 257(6) of the Constitution submit their decision therefore to the Speakers of National Assembly and Senate.

Hon. Speaker, through a Communication from the Chair made on the 31<sup>st</sup> July, 2019, Members were informed of receipt of the Bill. Further, Members were informed of a court order which was filed seeking to stay the processing of the Bill by County Assemblies.

Hon. Speaker, through a communication from the Chair made on the 4<sup>th</sup> September, 2019, Members were informed that the Court Order seeking to stay the processing of the Bill had been set aside and County Assemblies were required to proceed with the process of considering the Bill.

Further, the joint committees on Devolution and Intergovernmental Relations and Justice and Legal Affairs were tasked to consider and make a decision on the Punguza Mizigo (Constitutional Amendment) Bill, 2019 and report back to the House on or before 22<sup>nd</sup> October, 2019 as per the Assembly Standing Orders.

### 1.2 MANDATE OF THE JOINT COMMITTEE

Hon. Speaker, the Sectoral Committee on Justice and Legal Affairs is mandated to deal with Constitutional affairs, the administration of law and justice, including the elections, ethics, integrity and anti-corruption and human rights.

Further, Hon. Speaker, pursuant to County Assembly of Machakos Standing Order 189(3)(a), (b), (c), (d), (e) and (f) the Committee on Devolution and Intergovernmental Relations is mandated to:

- a. Liaise with institutions of the National government on matters of devolution;
- b. Liaise with institutions of the National government on non-devolved functions;
- c. Coordinate activities of the Assembly with the County Assemblies Forum;
- d. Coordinate activities of the Assembly with International bodies; and
- e. Promote inter-county relations on matters of common interest.

### 1.3 COMMITTEE MEMBERSHIP

Hon. Speaker, the membership of the aforementioned Committees is as follows:

1. Hon. Moffat Maitha -Chairperson, Justice and Legal Affairs
2. Hon. Jeremiah Munguti -Chairperson, Devolution and Intergovernmental Relations
3. Hon. Jane Nyawira -Vice Chairperson, Justice and Legal Affairs



4. Hon. Johana Munyao -Vice Chairperson, Justice and Legal Affairs

**Hon. (Ms.) C. Koki:** Point of order.

**Hon. Speaker:** Point of order from Hon. Koki.

**Hon. (Ms.) C. Koki:** I am just wondering; does the committee on Justice and legal affairs have two vice chairpersons as the Hon. Member has just read.

**Hon. Maitha:** Madam Speaker, I had just corrected; it was a typo error.

**Hon. Speaker:** That is good; it shows that Members are very much awake. Go ahead, Hon. Maitha.

**Hon. Maitha:** Thank you, Madam Speaker. I repeat from No. 4.

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| 4. Hon. Johana Munyao     | -Vice Chairperson, Justice and Legal Affairs |
| 5. Hon. Robert Kisini     | -Member                                      |
| 6. Hon. Francis Kalumu    | “  |
| 7. Hon. Patrick Kituku    | “  |
| 8. Hon. Mohammed Ali      | “  |
| 9. Hon. Phoebe Koki       | “  |
| 10. Hon. Benedette Mueni  | “  |
| 11. Hon. Daniel Kiilu     | “  |
| 12. Hon. Justus Katumo    | “  |
| 13. Hon. Francis Ngunga   | “  |
| 14. Hon. Cosmus Masesi    | “  |
| 15. Hon. Stephen Mwanthi  | “  |
| 16. Hon. Tariq Mulatya    | “  |
| 17. Hon. Alice Nzioka     | “  |
| 18. Hon. Eric Musembi     | “  |
| 19. Hon. Dominic Ndambuki | “  |
| 20. Hon. Winfred Mutua    | “  |

#### *SECRETARIAT*

1. Hillary Muthui..... Principal Legal Counsel
2. Mwikali Mwaniki.....Senior Clerk Assistant
3. Dorothy Kingoo..... Legal Counsel
4. Sarah Mwanja..... Senior Clerk Assistant

## *2.0 LEGAL FRAMEWORK*

### *2.1 Legal Framework on Constitutional Amendment*

1. The preamble to the Kenya Constitution recognizes that the Kenyan people—
  - (a) Acknowledge the supremacy of the Almighty God of all creation;

- (b) Are committed to nurturing and protecting the well-being of the individual, the family, communities and the nation:
  - (c) Recognizes the aspirations of all Kenyans for a government based on the essential values of human rights, equality, freedom, democracy, social justice and the rule of law:
  - (d) Exercise their sovereign and inalienable right to determine the form of governance of Kenya by participating fully in the making of the Kenya Constitution; by adopting, enacting and giving the Kenya Constitution to themselves and to their future generations.
2. Article 1(1),(2) and (4)(a) and (b) of the Constitution recognizes that all sovereign power belongs to the Kenya people and can only be exercised directly or through democratically elected representative at the National level or at the County level.
  3. Article 2(1) and (2) of the Constitution provides that the Constitution is the supreme law of the Republic and binds all state organs, and that no person can claim or exercise state authority except under the Constitution. Further, Article 2(3) of the Constitution provides that the validity or legality of the Constitution is not subject to challenge by or before any court or state organ.
  4. Article 10(1)(a),(b) and (c) and (2)(a) and (b) of the Constitution provides that national values and principles of governance among them the rule of law, democracy and participation of the people and inclusiveness binds all state organs, state officers, public officers and all persons when applying or interpreting the Constitution; enacting, applying or interpreting any law or making or implementing public policy decisions.
  5. Article 94(1) and (2) of the Constitution provides that the legislative authority of the Republic is derived from the people and shall be vested and exercised by Parliament at the National Level which manifests the diversity of the nation, represents the will of the people and exercises their sovereignty. Further, Article 94(4) of the Constitution provides that the Parliament must protect the Constitution and promote the democratic governance of the Republic.
  6. Article 174(a), (c) and (d) of the Constitution provides that the objects of devolution includes promotion of democracy and accountable exercise of power, giving powers of self-governance to the people and enhancing the participation of the people in the exercise of the powers of the State and in making decisions affecting them and recognition of the right of communities to manage their own affairs and to further their development.
  7. Article 185(1) of the Constitution provides that the legislative authority of a County Government is vested on and exercised by the County Assembly.
  8. Article 196(1)(a) and (b) provides that a County Assembly must conduct their business in an open manner and facilitate public participation and involvement in the in the legislative and other business of the Assembly and its committees.
  9. Chapter 16 of the Constitution makes provision for the various ways in which any proposed amendment to the Constitution shall be undertaken.
  10. Article 257(10)(b), (c), (f), (g), (h) and (i) provides that any amendment to the Constitution whose amendment relates to territory of Kenya, sovereignty of the people, term of office of the President, the independence of the Judiciary and the

commissions and independent offices to which Chapter Fifteen applies, functions of Parliament and the objects, principles and structure of devolved government shall be approved through a memoranda if—

- (a) At least twenty per cent of the registered voters in each of at least half of the counties vote in the referendum; and
  - (b) The amendment is supported by a simple majority of the citizens voting in the referendum.
11. Article 257 (1),(2) and (3) of the Constitution provides that any amendment to the Constitution through popular version must be signed by at least one million registered and may be in the form of a general suggestion which shall be formulated into a Bill by the promoter or a formulated draft Bill. Further 257(4) of the Constitution provides that upon support by at least one million registered voters of the draft Bill, the Independent Electoral and Boundaries Commission shall verify the signatures where upon satisfaction, the Commission shall submitted the draft Bill to all County Assemblies for consideration within three months upon receipt of the Bill by the County Assemblies.
12. Article 257(6) of the Constitution provides that upon approval of the draft Bill by County Assembly, the Speaker of the County Assembly must deliver a copy of the Bill jointly to the Speakers of the Senate and National Assembly with a certificate that the Assembly has approved the Bill.
13. Article 257(8) and (9) of the Constitution provides that a Bill seeking to amend the Constitution shall be passed if supported by majority of members of Parliament and forwarded to the President.
14. Section 14(1)(a) and (b) of the County Governments Act provides that a County Assembly may make Standing Orders consistent with the Constitution and the Act regulating the procedure of the County Assembly including, in particular, orders for the proper conduct of proceedings and subject to standing orders made under paragraph (a), may establish committees in such manner and for such general or special purposes as it considers fit and regulate the procedure of any committee so established.

## *2.2 Punguza Mizigo (Constitution of Kenya Amendment) Bill, 2019*

The Punguza Mizigo (Constitution of Kenya Amendment) Bill, 2019 seeks to provide for the following proposed amendments—

### *2.2.1 Chapter Six*

#### *Leadership and Integrity*

- (a) Article 73 as relates to the responsibilities on leadership is amended by barring persons adversely mentioned in the audit report from holding any public office. Further, State officers or accounting officers whose departments are unable to account for public funds are required to vacate office immediately.
- (b) Article 73 is amended by inserting of a new provision which provides that any person accused of corruption of public resources shall be tried within 30 days upon arraignment in court and upon conviction be liable for life imprisonment. Further any appeal subject

thereto shall be tried within twenty one days. Further no presidential amnesty shall be applicable to persons who are found guilty of theft of public resources.

### 2.2.2 Chapter Seven

#### *Representation of the People*

- (1) Article 83 as relates to voter registration is amended by providing that a person does not have to be an adult citizen to qualify for registration as voter at elections or referenda but instead every person who attains eighteen years and acquires a national identity card is deemed to be fully registered as a voter for purposes of elections or referenda.
- (2) Article 88(4)(a) and (c) is amended by deleting the role of IEBC as relates to the continuous registration of citizens as voters for purposes of referenda and elections of any elective body and further requiring that IEBC will only delineate wards and not constituencies.
- (3) Article 89(1) is amended by reducing the Constituencies from 290 to 47 for purposes of electing members of National Assembly and requiring the IEBC to use the 47 counties as a single constituency for purposing of elections of Members of National Assembly.
- (4) Article 89(2) is amended by providing that IEBC will no longer review names and boundaries of constituencies.
- (5) Article 89(5) is amended by providing that boundaries of constituencies shall not be used to determine the number of inhabitant but instead only wards boundaries shall be used.
- (6) Article 89(6) is amended by providing that the number of inhabitants in a constituency shall not be used to set up the population quota.
- (7) Article 89(7) and (8) is amended by providing that IEBC will no longer review nor alter the names and the boundaries of a constituency.
- (8) Article 89(9) is amended by mandating IEBC to publish name and details of ward boundaries in the gazette which shall come into effect on the dissolution of Parliament first following the publication.
- (9) Article 90 as relates to the nomination of representative of special interest groups by political parties based on their proportional representation to the National Assembly, Senate and Counties Assemblies is deleted.

### 2.2.3 Chapter Eight

#### *The Legislature*

- (1) Article 93 is amended by making Senate the Upper House.
- (2) Article 96 is amended by providing that Senate can review National Assembly decisions if they contravene the Constitution or are against public interest. Further, the Senate may veto any Bill passed by the National Assembly by resolution supported by at least two-thirds members failure to which the Speaker of the Senate shall within seven days of passing the resolution refer the Bill as adopted by the National Assembly to the President for assent.
- (3) Article 97 as relates to the establishment of the National Assembly is amended by providing that National Assembly shall only be comprised of—

- i. 94 elected Members consisting of one man and one woman representing the 47 counties as Constituencies; and
  - ii. Six persons of whom one shall be a man and a woman nominated to represent Special interest groups consisting of women, persons with disabilities, youth, ethnic and other minorities and marginalized communities.
- (4) Article 98(1) as relates to the establishment of the Senate is amended by providing that the Senate shall only be comprised of the 47 persons each elected by the registered voters in each county.
  - (5) Article 100 is amended by providing that Parliament shall not enact any legislation which seeks to promote women and marginalized communities in Parliament.
  - (6) Article 101(2) is amended by providing that whenever a vacancy occurs in the National Assembly as relates to the Special interest representation, the Speaker of National Assembly must within twenty-one days of the occurrence of the vacancy give notice to the IEBC which shall subsequently thereto write to the respective nominating statutory body.
  - (7) Article 111 is amended by providing that National Assembly cannot amend or veto any special Bill concerning County Government that has been passed by the Senate.
  - (8) Article 121 is amended by reducing the quorum of the National Assembly from fifty members to twenty four members.

#### 2.2.4 Chapter Nine

##### *The Executive*

- (1) Article 136(2)(a) is amended by providing that election of the President shall be held on the second Tuesday of August after every seven years.
- (2) Article 142(2) is amended by providing the term of office of the President shall be for a single term of seven years.
- (3) Article 146(2)(b) is amended by providing that a vacancy which occurs in the Office of the President which is triggered by the Office of the Deputy President being vacant or the Deputy President being unable to assume the duties of the President, the Speaker of the Senate shall act as the President following which election shall be held within sixty days after the occurrence of the vacancy of the office of the President.
- (4) Article 157 is amended by incorporating the following additional functions as responsibilities of the office of the Director of Public Prosecutions (DPP).  
The DPP shall:
  - a. Use both general financial audit findings and forensic reports from the Auditor-General as the first piece of evidence in all theft of public resources cases and in no value for money cases;
  - b. Prosecute all public and state officers together with their private sector accomplices who are responsible for all adverse audit findings within sixty days of audit completion;
  - c. Write to all officers responsible for adverse audit findings demanding that they leave office within thirty days in compliance with Chapter 6 on receiving audit and forensic audit reports; and

- d. Publish in a public website and widely circulated media the action taken on each single issue raised in the audit and forensic reports within sixty days of receiving the reports.

### 2.2.5 Chapter Eleven

#### *Devolved Government*

1. Article 177(1)(b),(c) and (d), (2) and (3) on membership of County Assemblies as relates to persons representing marginalized groups and special interest to meet two-third gender rule who are nominated by political parties based on their proportionate numbers in County Assemblies is deleted.
2. Article 179(2)(a),(4) and (5) as relates to the composition of the County Executive Committee is amended by the providing that the Deputy Governor shall not be the Deputy Chief Executive of the County nor shall he or she act as the Governor in absence of the County Governor.
3. Article 180(5),(6) and (7)(a) as relates to the position of the Deputy Governor is amended by providing that a County Governor shall appoint a County Deputy Governor from amongst County Executive Committee Members who are duly vetted and approved by the County Assemblies for appointment by the Governor.
4. Article 182(2),(3),(4) and (5) is amended by providing that whenever a vacancy occurs in the Office of the County Governor, fresh elections of a County Governor shall be held within sixty days after a County Assembly Speaker assumes the office of county Governor.

### 2.2.6 Chapter Twelve

#### *Public Finance*

1. Article 201 on the Principles of public finance is amended by providing as follows—
  - (a) Parliament budget shall not be more than 0.35 per cent of the most recent audited accounts of revenue received, as approved by the National Assembly;
  - (b) Not more than 20 per cent of Parliament total annual budget shall be used on salaries and allowances for members of Parliament; and
  - (c) The highest paid public servant or state officer shall be paid a salary and allowances not exceeding 50 times that of the lowest paid public servant or state officer.
2. Article 203(1) is amended by incorporating the following as some of the factors to be taken into account when determining equitable share for county Governments.
  - (a) Development and other needs of wards in the counties; and
  - (b) Economic disparities within and among wards in the counties and the need to remedy them.
3. Article 203(2) is amended by increasing the equitable share of revenue raised nationally and allocated to county Governments to not less than 35 per cent of all revenue collected by the National Government every financial year.
4. Article 203 is amended by providing that County Governments shall use ward as the primary unit of enhanced development.

5. Article 204 is amended by providing that the National Government must use Equalization Fund to provide at ward level basic services to marginalized 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.
6. Article 229 as relates to the Office of the Auditor General is amended through the establishment of a forensic accounting department which shall enhance capacity to produce credible evidence of prosecuting the theft or failure to account for public resources and whose forensic report shall be forwarded to DPP and DCI within five days of completion of audit.

### 2.2.7 Chapter fifteen

#### *Commissions and Independent Offices*

- (1) Article 250 as relates to Independent Commission is amended by providing that Independent Commission shall only consist of not less than three and not more than five members who shall serve on a part-time basis, and who shall draw a sitting allowance as may be set by the Salaries and Remuneration Commission.

### 3.0 PRESENTATION BY DR. EKURU AUKOT TO HON. MEMBERS

Hon. Speaker, Article 195(1) of the Constitution of Kenya states that, a County Assembly or any of its Committees has power to summon any person to appear before it for the purpose of giving evidence or providing information.

Vide a letter REF :MKSCA/ADM/PETT/297/19/VOL.1 /2, dated 24<sup>th</sup> September, 2019, the Speaker of the Assembly invited Dr. Ekuru Aukot, Party Leader, Third Way Alliance Kenya and who is also the promoter of the Punguza Mizigo (Constitution of Kenya Amendment) Bill, 2019 for a meeting. The said meeting with all the members took place on the 7<sup>th</sup> October, 2019 starting 10.30 a.m. at the Assembly's Chamber and the matters deliberated upon during the said meeting was discussion of the Punguza Mizigo (Constitution of Kenya Amendment) Bill, 2019 as part of public participation thereon.

### 3.1 *On the need to strengthen the Senate and National Assembly and to reduce the cost of running the National Parliament*

Dr. Aukot said that this idea was brought up by fellow Kenyans where they mentioned that they want to address this over-representation by reducing the current 416 to 147 and also reduce the cost of running Parliament which is currently Ksh. 42.5 billion in one year to at least Ksh. 5 billion.

He went ahead and told Members to go to the Third Way Alliance YouTube channel where they would see demonstrations of what Ksh. 37.5 billion can be used to do e.g. the idea of building a modern classroom.

He reiterated that fellow Kenyans said that, this idea of over-representation at the national level was too much and that is where the ideas of abolishing the 290 constituencies, abolishing nominations and make the counties 47 each as a single Constituency came from.

He added that there was the need to have a special interest group that will elect six people maximum and that the six will add up to a total of 100. While on the Senate, we will have one Senator who will be elected from all the 47 counties again and which will make the senate have total of 147 maximum and which will be key in reducing the cost of running parliament from the current Ksh. 42.5 billion to only about Ksh. 5 billion annually.

*3.2 On using each of the 47 Counties as a single constituency unit for purposes of parliamentary elections to the senate and the National Assembly which abolishes the current 290 constituencies*

Dr. Aukot said, by inserting the following new sub-article 81(1A) immediately after Article 81(1) for purposes of Parliamentary elections to the Senate and the National Assembly, the Independent Electoral and Boundaries Commission, shall use each of the 47 Counties as a single constituency unit and not the 290 constituencies as it has been.

*3.3 Elevating senate to the Upper House*

On this matter he said, over the years there has been a tug of war between the two houses of Parliament including the most recent one where money was denied and that, it was that stand between the Senate and the National Assembly that denied the people of Kenya resources. He added that making the Senate the Upper House with veto powers would clean up the mess that has been there over the years.

He went ahead and gave an example of last year and this year when revenue that was divided to come to Machakos County which was based on the wrong audited accounts of Financial Year 2013/2014 and 2014/2015. Saying the Counties were denied more money to get to them and this pushed them to oppose the Division of Revenue Bill No. 7 of 2018. They criticized the Senate by saying the Bill is first of all unconstitutional, secondly, it is going to deny the counties their rightful equitable share of revenue because they were dividing Ksh. 937 billion shillings instead of Ksh. 1.4 trillion. Which meant that Ksh. 500 billion was tagged somewhere else which could be the reason why counties were unable to access that money.

He added that, with this kind of idea, it would block Members of Parliament from just waking up one morning and deciding to increase their salaries as they wish to. He went ahead and gave out an example of how they recently wanted night allowance on top of the many allowances that they already have.

*3.4 On the need to strengthen devolution and take services to people's doorsteps  
Increasing Counties revenue share allocation to at least, 35 per cent from the current 15 per cent*

The people of Kenya are in the counties, wards, and villages. The Party Leader for the Third Way Alliance pointed out that by doing so it will—

1. Spur economic development in counties, especially at Ward level;
2. The people of Kenya are at the counties and at the ward levels and that most development is needed at the ward levels. Increasing funds allocation to the counties is to accelerate development; we want to see good schools, hospitals, roads, security, and clean water, amongst other needs at the ward level; and
3. It will attain real and meaningful inclusivity when each citizen gets an equitable share.

**PROCEDURAL MOTION  
EXTENSION OF SITTING TIME**

**Hon. Museku:** Point of order.



**Hon. Speaker:** Point of order, Hon. Museku. Hon. Maitha you can this opportunity and take a short break as we hear what the point of order is about. Hon. Museku.

**Hon. Museku:** Thank you, Madam Speaker. I stand on Standing Order 27 to request extension of time.

Hon. Speaker, that aware that Standing Order 27(2) provides that the Speaker shall interrupt business at 12.30 p.m. for the morning sitting;

Aware that Standing Order 27(3) provides that House may resolve to extend its sittings time;

Aware that Standing Order 27(4) requires a motion to extend sitting time to be moved at least 30 minutes before the time appointed for adjournment;

Hon. Speaker, I beg to move the motion that this House resolves to extend its sitting time until the business is completed.

Thank you, Madam Speaker. I would like to call upon the Majority Leader Hon. Mark Muendo to second my motion.

**Hon. Speaker:** Hon. Majority Leader.

**Hon. Muendo:** Thank you, Madam Speaker. I second the Motion.

**Hon. Speaker:** Thank you, Hon. Museku and Hon. Madam Speaker. Hon. Members, it is the business that is on the Table and as it has been pointed out in the Motion, it is 12 noon and this is supposed to be done 30 minutes before 12.30 p.m. Are we in agreement Hon. Members?

**Hon. Members:** Yes.

**Hon. Speaker:** We are all in agreement?

**Hon. Members:** Yes.

**Hon. Speaker:** Thank you. It is resolved by the House that we extend sitting time. Hon. Maitha, proceed.

*(The House resumed business set out in the Order Paper)*

**Hon. Maitha:** Thank you, Madam Speaker.

*3.5 On the need to address gender imbalance, inequality and address the elusive 1/3 gender principle*

It was said that this would end historical gender inequality and ensure that Kenyans elect one man and one woman from each of the 47 counties to the National Assembly.

Dr. Aukot further added that, from Article 100 which proposed to amend to create the six special interest seats, each of those seats, one must be a woman and a man and that way we will have achieved the 50-50 gender parity at the National level and which will then trigger an amendment to the Political Parties Act and the Independent Electoral Boundaries Commission Act.

*3.6 The other rationale was on the need to demystify the presidency by introducing one term of seven years.*

He gave justifications of history of violence, ethnic and political tensions and further went ahead and gave examples of the previous violence we have had as a country that took place in 1992, 1997, 2007 and 2017. He insisted that if one was a serious President, seven years is such a long term for someone and having given examples of how there is an economic meltdown, the wage bill that comes with the presidency will be less costly.

The other justification he gave as far as this rationale is concerned, was the need to reduce the public wage bill and recurrent expenditure because the National wage bill in this country is so huge, which at the moment is at Ksh. 6 trillion which is brought up by borrowing all over.

He added that Kenyans proposed they address the question of over-representation, abolish nominations, stop wastage by capping salaries and then abolish the positions of Deputy Governors. With Constitutional Commissions, Kenyans have asked, why we need more commissioners in this country who are pensionable and paid a lot of money. They said a minimum of three, maximum of five, and should also work part-time. For the Deputy Governor's position, Kenyans told us that, that position is redundant but there are a couple of Deputy Governors who actually support this amendment.

*3.7 The theme of enforcing integrity, end corruption and theft of public money*

He said that on the need to enforce integrity, end corruption and theft of public money, there was need to amend Chapter 6 of the Constitution automatically and because of this, it has triggered an amendment to several Articles in the current Constitution.

The main question was how do we end this theft of public money and it was said that it should begin from individuals who run for public office who should not be appointed. The other way is that the office of the Auditor General should be strengthened.

On the same, he asked Members to look at Article 79 where there is an introduction of a new Article to our Constitution that says a corruption or a theft of public resources shall be tried within 30 days of arraignment before a court of competent jurisdiction and an appeal to be concluded within 21 days and that a person convicted and found guilty of corruption or theft of public resources or money shall serve a life sentence.

*3.8 Reduction on the cost of running elections and registration of voters*

Where every Kenyan at the age of 18 and who acquires a National Identity card shall be deemed to be fully registered voter for purposes to elections and referenda;

The party gave justifications saying that this will save Kenyans and IEBC billions of shillings for the continuous registration of voters. National identity card and or passport is the commonly used document for voting at elections and not the voter registration card. With proposals to modernize voting including but not limited to the use of electronic voting, all we need to do is to ensure that we have a trusted register of Kenyan adults duly entered into a national register that IEBC can sync with its systems for purposes of elections.

The other justification was that because the cost of voter registration runs into tens of billions of shillings every five years, it will stop wastage of public funds by creating yet another government register when we already have one by the National Bureau for the Registration of Persons and that it will also help to maintain a single citizen database that can be improved and updated with ease for use as a voter register.

#### *4.0 PUBLIC PARTICIPATION AND RECEIPT OF MEMORANDA ON PUNGUZA MIZIGO (CONSTITUTION OF KENYA AMENDMENT) BILL*

##### *4.1 STAKEHOLDERS ENGAGEMENT*

Hon. Speaker, the Assembly extended an invitation to various organizations and requested them to submit their views on the Bill to the Assembly. Among the stakeholders whom the invitation was extended to, includes the Law Society of Kenya, South Eastern Branch, Kenya Association of Manufactures, Machakos County Region, Kenya National Chamber of Commerce and Industry, Machakos Region, Machakos County CSOs Network and various religious groups.

##### *4.2 PUBLIC PARTICIPATION IN THE EIGHT SUBCOUNTIES WITHIN THE ENTIRE MACHAKOS COUNTY*

Hon. Speaker, the Assembly conducted public participation in every sub-county where members of the public made recommendations on the Punguza Mizigo (Constitution of Kenya Amendment) Bill, 2019. The following is a summary of the views of the public on the specific proposed amendments to the Constitution.

###### *4.2.1 KATHIANI SUBCOUNTY*

1. Hon. Speaker, on Clauses 6, 7, 10, 11 and 12 of the Bill that seeks to amend Articles 88, 89, 90, 97, 98 and 100 of the Constitution to reduce the number of Members of Parliament, the public stated the following—

- i. That less number of Members of Parliament means that the leaders will not be available when required as they would be overseeing a bigger area. Further, that accessibility to leaders is going to be rendered difficult if not impossible because they will be further from the villages.
- ii. That the Bill fails to embrace the spirit of devolution because leadership will be going back to the central government.
- iii. That population growth translates to an increase in leadership opportunities and roles; therefore women representatives and all nomination of Senators, MPs and MCAs positions should remain.

2. Hon. Speaker, members of the public agreed with Clauses 8, 9, and 20 which propose to amend Articles 93, 96 and 146 of the Constitution to give more powers to the Senate and to make it the upper House with oversight role over the National Assembly. The members of the public were of the view that Senators deal with an entire county as opposed to MPs who only deal with a constituency. Therefore giving the Senate more power will do away with the wrangles that have been witnessed recently and which led to a standoff and a delay in disbursement of funds to counties.

3. Hon. Speaker, on Clauses 18 and 19 of the Bill that seeks to amend Articles 136 and 146 of the Constitution to increase the term of Presidency from the current five years to seven years, members of the public objected to that proposal stating that—
  1. The proposed seven year term limits inclusivity of all communities to get a chance for one of their own to ascend to presidency.
  2. A seven year presidential term will make the presidential candidate reluctant to perform, prone to corrupt and less accountable because they will not be seeking re-election.

4. Hon. Speaker, on Clause 27 of the Bill that is intended to amend Article 201 of the Constitution on the capping of salaries for state and public officers, members of the public rejected the proposal saying that the cost of living should be adjusted downwards since it's too high, making it hard to survive on meager salaries and that development means an increase in opportunities as well as increase in salaries.
5. The proposed amendment under Clauses 23, 24 and 25 that are to amend Articles 179, 180 and 182 of the Constitution to abolish the office of the Deputy Governor was rejected by members of the public who said that in the political arena, a Governor will always require a Deputy Governor to assist in the political elective campaigns and the management of the County.
6. Hon. Speaker, members of the public agreed with the proposals contained in Clauses 2, 3 and 30 of the Bill which are meant to amend Articles 73, 79 and 229 of the Constitution which are on the curbing corruption, augmenting integrity and accountability and the expeditious disposal of corruption related cases.
7. On limiting membership in Constitutional Commissions under Clause 31 of the Bill that seeks to amend Article 250 of the Constitution, members of the public objected to this proposal saying that the formation and composition of Commissions depends on its mandate and therefore it's not possible to come up with a one-size-fits-all design of a Commission. It was also felt that the Commissioners should be paid salaries rather than allowances as the Bill suggests.
8. On automatic registration of voters upon issuance of a national identity card under Clause 4 of the Bill that seeks to amend Article 250 of the Constitution, members of the public opposed the proposal stating that the process is prone to election malpractices such as voter can vote severally and in different voting stations and further that a dead persons' Identity Card can be used to vote.

#### 4.2.2 MASINGA SUBCOUNTY

Hon. Speaker, the views of members of the public in Masinga Sub-county were as follows—

1. Members of the public rejected the proposal to reduce the number of Members of Parliament on similar basis as that of Kathiani Sub-county.
2. The public also agreed that the Senate should be made the upper House with supervisory powers over the National Assembly as proposed in the Bill.
3. On the President serving seven year term, members of the public objected with the justification that these are too many years to condone an ignorant, biased or a corrupt president.
4. The public opposed the capping of salaries for public officers.
5. It was felt that the office of the Deputy Governor should not be scrapped since every leader of a 'household' should have a 'helper' and that even schools have deputies
6. On curbing corruption members of the public were in agreement with the proposal in the Bill.
7. The proposal to limit the membership in Constitutional Commissions was also rejected.

8. Members of the public opposed the amendment to do away with voter registration.

#### 4.2.3 MACHAKOS TOWN SUB-COUNTY

Hon. Speaker, the following are the views of members of the public from Machakos Town Sub-county—

1. Concerning amendments to Article 79, members of the public were of the view that the 30 days given for trial for corruption cases and the 21 days for appeal was too short for any meaningful prosecution. Further, it was felt that jails are correctional facilities and any person who reforms should have an opportunity to be pardoned and thus jailing offenders for life is too punitive.
2. On the amendment to Article 89 of the Constitution to reduce the number of constituencies from 290 to 47 would reduce representation and thus have serious effects on devolution. All the elected leaders whether MP, Senator or MCA stood for devolution and their reduction would reduce the force of devolution.
3. By amending Article 177 of the Constitution to scrap nomination to County assemblies is eroding the gains so far made towards the attainment of the two – thirds gender rule.
4. Amendment to Article 180 of the Constitution to give powers to the Governor to appoint a ‘Principal Assistant’ from among the County Executive Committee members is retrogressive as it allows the Governor to sack such a person any time unlike the current situation where the Governor cannot sack the Deputy Governor arbitrarily.
5. On the amendment to Article 201 of the Constitution to reduce the salaries of state and public officers it was felt that this would affect service delivery and may sacrifice performance. Also, if corruption was curbed, there would be no need to reduce salaries.
6. Overall, devolution in Kenya is still young to have such radical amendments. In any event some laws were yet to be enacted thus too early for the amendments.

#### 4.2.4 MAVOKO SUB-COUNTY

Hon. Speaker, members of the public from Mavoko Sub-county expressed views which are similar to the other Sub-counties save for the following views which are unique to the sub-county:

1. The public supported the amendment to eliminate nominated Members of County Assembly since they do not see them play any role. Further, they were of the view that that the monies paid to them can be set aside to undertake community projects.
2. Amendment to Article 180 of the Constitution was fully supported by the public who said that the position of the Deputy Governor is of no importance to them and in case of any vacancy in the office of the Governor, members will be ready for a by-election to elect a person of their interest.
3. The public supported the proposed amendment to Article 203 of the Constitution and said that the allocations made to the county Governments should be increased as proposed, that is, from 15 per cent to 35 per cent.

#### 4.2.5 MATUNGULU SUB-COUNTY

Hon. Speaker, the views of members of the public in Matungulu Sub-county were as follows—

1. Leadership opportunities and roles need to be embraced and therefore nomination positions for all categories should remain as they are.
2. Hon. Speaker, members of the public agreed with clauses 8, 9, and 20 which propose to amend Articles 93, 96 and 146 of the Constitution to give more powers to the Senate and to make it the upper House with oversight role over the National Assembly.
3. On the abolishment of the Deputy Governors' position, member of the public supported since there is nothing much he does and the same can be done by any person appointed by the Governor.
4. Hon. Speaker, on Clause 27 of the Bill that is intended to amend Article 201 of the Constitution on the capping of salaries for state and public officers, members of the public rejected the proposal saying that the idea is not in good faith and that it will accelerate corruption.
5. On curbing corruption members of the public were in agreement with the proposal in the Bill.
6. Members of the public reiterated that the author of the Bill should have done proper public participation to get views from the grassroots before drafting the Bill.

#### 4.2.6 KANGUNDO SUB-COUNTY

Hon. Speaker, the Bill was rejected by Kangundo Sub-county residents for the following reasons—

1. Accessibility to leaders will be difficult if the number of Members of Parliament is reduced because they will be few compared to the Kenyan population.
2. The Bill abolishes representation of Persons with Disabilities who must be represented because their representatives understand their needs better.
3. The Bill does not provide for the mode of recovery of the public funds already embezzled.
4. The Public felt that the proposer of the Bill was trying to win publicity for his own selfish benefits.
5. On the abolishment of the Deputy Governors' position, member of the public objected because the office of the Governor is big and will need a helper.
6. The public could not understand the logic behind scrapping Constituencies from 270 to 47 Constituencies.
7. The Public agreed on the proposal on how the Auditor General's findings and recommendations are to be acted on and the proposal for life sentencing for corrupt individuals.

#### 4.2.7 MWALA SUB-COUNTY

Hon. Speaker, the residents of Mwala Sub-county had the following to say about the Bill—

1. On the issue of over representation, members of the public objected to the proposed amendments saying that the Bill does not embrace devolution because

the power will be taken away from the people if the representatives are reduced. The public felt that already they are not able to access the Members of Parliament and if they are reduced to only two for the Whole County, then they will have automatically been denied the chance to express their issues to the MP. The population is always increasing and therefore the need for more representation.

2. Members agreed with the proposal to make the Senate the upper house because the Senate deals with matters relating to the entire county as opposed to MPs who only deal with a constituency. This will also reduce the fights being experienced between the Members of Parliament and the Senators.
3. On increasing the term of office for the President to seven years, it was felt that those are too many years for one person to rule a country. The term of seven years will give a chance to the sitting presidential candidate to underperform since they are not seeking for a re-election.
4. Regarding capping of salaries, members of the public said that the cost of living should be adjusted downwards since it is too high, making it hard to survive on meager salaries. They felt that people should be paid according to the duties and responsibilities given to them.
5. Concerning the abolition of the Deputy Governors' position the public objected saying that they have a constitutional right to elect their leaders, in this case the Deputy Governor, was being taken away and being given to someone else appointed by the Governor upon approval by the County Assemblies. Also, everyone needs a helper even according to the Bible.
6. On curbing corruption, members of the public were in agreement with the proposals in the Bill on how the Auditor General's proposals, findings and recommending and sentencing if one is found guilty.
7. About limitation of membership of Constitutional Commissions, the public objected by saying that formation of Commissions should be as per the need or task to be performed and their duties should be in tandem with what is outlined in the Constitution. Members of the Commission should be paid salaries not allowances as the Bill suggests. This will reduce corruption and calling unnecessary meetings just to earn allowances.
8. On the abolishing of voter registration, members of the public agreed with the proposed amendment of abolishing voter registration because this will reduce the money being used by IEBC in the exercise of voter registration exercise.

#### 4.2.8 YATTA SUB-COUNTY

Hon. Speaker, in Yatta Sub-county members of the public expressed the following views—

1. Members of the public agreed with the proposed amendments on the issue of integrity and accountability as it will be good to base prosecution on the Auditor General's Report which is a credible document produced by an independent Constitutional Office. It will also strengthen the powers of the Office of Auditor General. On having timelines for trial of corruption cases, members of the public were supportive saying that it will avoid delay of Justice and that the short time lines will curb chances of corrupting the prosecution process.

2. The public supported the reduction of Members of Parliament indicating that this will reduce public expenditure. They recommended that the existing National Government Constituency Development Fund (NG-CDF) should be channeled to the Wards to strengthen them.
3. The public also supported the increase of the term of the President to seven years as it will reduce cases of people focusing on re-election and concentrate on development.

#### 5.0 COMMITTEE OBSERVATIONS

Hon. Speaker, during the public participation and Dr. Aukot's visit in the Assembly, the Committee observed the following—

1. Currently there is no National Legislation providing for the consideration on amendment of the Constitution through popular initiative pursuant to Article 257 of the Constitution.
2. County Assemblies cannot make further amendments to the Bill as submitted.
3. Members of the public approved some amendments and rejected others thus making it difficult to make a conclusive decision.
4. The Bill does have transitional and consequential provisions in case it is passed pursuant to Article 257 especially as relates to the issuance of governance structures.
5. The proposed Bill failed to touch on important issues in the Constitution which require amendment such as the issue of land.
6. The issue of over representation is real because every voter elects a President, Senator, Governor, Member of Parliament, Women representative and Members of County Assembly all representing the voters thus making representation an expensive affair.
7. The Bill has introduced life sentence on the people who will be found guilty over misuse of public funds which was not there thus making the Constitution more stronger on issues concerning misuse of public funds and as a result influencing of the outcome of the case would be difficult because the offender shall not be in office.
8. This Bill introduces uncertainty on whether the number of wards could be reduced through amendment of Article 89(8) which provides that "if necessary, the Commission shall alter the number, names and boundaries of wards" hence making it not clear whether the number of wards would be altered upwards or downwards therefore leaving a room for a possible amalgamation of the wards leading to reduction in number.
9. The Bill contains several provisions which are progressive and which resonate with the members of the public such as making the Senate the upper House, tightening of the integrity provisions of the Constitution, reduction of cost of governance etc.
10. The Bill concentrates too much on reducing the cost of governance at the expense of other important considerations such as the upholding of human rights, gender equality, non-discrimination and other entrenched principles of governance.
11. Some of the proposed amendments seem to contradict each other. For instance, the concept of the two-third gender rule as relates to elective position which is



being amended by Clause 10 which amends Article 97(1) of the Constitution contracts with Article 27(8) of the Constitution.

12. It appears from the Bill that, while its promoters may have gotten proposals for amendment of the Constitution from members of the public, they did not conduct adequate public participation on the text of the Bill and the solutions prescribed for dealing with the aspects of the Constitution that need change.
13. The Bill had taken care of the third gender rule, the funds meant for payment of remuneration and benefits to nominated women can be allocated to other development activities.

**Hon. Speaker:** I think you need to correct that especially when you use the terminology ‘nominated women.’

**Hon. Maitha:** Madam Speaker, this is what the Clerk Assistants wrote so---

**Hon. Speaker:** No. It must be a---

**Hon. Maitha:** There must be a mistake.

**Hon. Speaker:** Is it only women who are nominated, Mr. Clerk Assistant? It is nominated Members and not just women.

**Hon. Speaker:** Nominated Members.

#### *6.0 COMMITTEE RECOMMENDATIONS*

Hon. Speaker, the Joint Committee on Justice and Legal Affairs and Devolution and Intergovernmental Relations which was tasked to consider the Punguza Mizigo (Constitution of Kenya Amendment) Bill, 2019 in accordance with Article 257(5) and (6) of the Constitution can only recommend to the Hon. House to either approve or reject the said Bill as forwarded to the Assembly by the Independent Electoral and Boundaries Commission.

Hon. Speaker, the Joint Committee recommends the following—

1. Parliament should enact a National Legislation providing for the consideration of amendment of the Constitution through popular initiative pursuant to Article 257 of the Constitution.
2. A proposed Bill for the amendment of the Constitution through popular initiative should have room for further amendments and not limiting it to either acceptance or rejection by County Assemblies.
3. That it is in support of some of the proposed amendments among them—
  - (a) Persons accused of theft or corruption of public resources to be liable for life imprisonment upon conviction by a court of competent jurisdiction;
  - (b) Making Senate the Upper House;
  - (c) Increment of equitable share to 35 per cent; and
  - (d) Establishment of forensic accounting department to enhance capacity to produce credible evidence for prosecuting the theft or failure to account for public resources and whose forensic report

shall be forwarded to DPP and DCI within five days of completion of audit.

4. Section 9(1)(a) of the County Governments Act provides that members of the County Assembly must maintain close contact with the electorate and consult them on issues before or under discussion in the County Assembly.

Hon. Speaker, it is based on the foregoing that the Committee took into consideration the views and recommendation of the public in making a determination on the Bill. Further, the Committee in consideration of the Bill realized loopholes on the Bill, an explanation of which was not satisfactorily given by the promoter of the Bill. It is based on the foregoing that the Committee recommends to the House not to approve the Punguza Mizigo (Constitutional Amendment) Bill, 2019.

*(Applause)*

#### *CONCLUSION AND ACKNOWLEDGEMENT*

Hon. Speaker, upon deliberation and approval by the House of this report for the Consideration of the Punguza Mizigo (Constitutional Amendment) Bill, 2019, the Speaker of the County Assembly shall forward the resolution to the Speakers of the National Assembly and the Senate pursuant to Article 257(6) of the Constitution.

Hon. Speaker, the joint committee of Justice and Legal Affairs and Devolution and Intergovernmental Relations Committee is grateful to the Office of the Speaker and that of the Clerk to the County Assembly for the support accorded during the committee sittings and visitations. I wish to express my appreciation to the Hon. Members of the Committee who sacrificed their time to participate in the activities of the Committee and in preparation of this report.

Hon. Speaker, it is therefore my privilege, on behalf of the Joint committee to table this report for consideration and adoption. Thank you, Hon. Speaker.

*(Applause)*

**Hon. Speaker:** Thank you very much Hon. Maitha for having taken us through that lengthy report of the Joint committee and Hon. Members, I now propose the question.

*(Question proposed)*

Hon. Members, the debate is now open for your participation. Hon. Hellen; I will come to your Hon. Majority Leader.

**Hon. (Ms.) Ndeti:** Thank you, Madam Speaker. I have been waiting for the day that we are going to sit down and discuss this Bill because there is one clause of the Bill that I am not happy with; the clause that states that the two-thirds gender rule which is currently enshrined in the current Kenya constitution is already deleted. Two thirds gender rule is a top-up for women mostly in the County Assemblies. Most of us are here because of that gender rule and if this is deleted it is very unfortunate because that is the only way you can promote women get them to know how to get involved with legislation and governing of the people of our country.

The other reason why I would not support this Bill is because first of all it is closed, it is cast on stone; it does not leave room for any amendment. So even I don't know why we were even going ahead and carrying out public participation if whatever issues we gather from the public cannot be included in this Bill because it is already cast in stone.

Thirdly, I still don't believe that allowing only by saying that they are going to allow 50/50 representation from the Counties that is having a woman and a man elected is one way of also encouraging women to be involved in legislation. So I feel that we should not pass this Bill as long as it is not supporting women of this country Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Helen. Hon. Majority Leader Mark Muendo.

**Hon. Muendo:** Thank you, Madam Speaker. I stand here to oppose the Bill. Madam Speaker, the owner of the Bill was in this House Dr. Ekuru Aukot and Madam Speaker, we went through the draft Bill and then the Members also raised some questions on the ground on how some of the issues were addressed in the Bill.

Madam Speaker, my point, No. 1 is when on clauses 6 and 7, 10, 11 and 12 of the Bill that seeks to amend Articles 88, 89, 90, 97, 98 and 100 of the Constitution to reduce the number of Members of Parliament, Madam Speaker, when you talk to have representation to have only 47 men and 47 women in the National Assembly and our country being in Third World it is not possible because Madam Speaker, we are looking even some of the constituencies are big so when you reduce and say a Member of Parliament will be representing one County, Madam Speaker, the people of Africa generally not even Kenya they will feel that they are not well represented.

The reason is we are in the developing country this is only applicable on countries which are in the First World. I remember Dr. Ekuru Aukot gave an example of India that Japan saying the population is very high and the representation is low. Let me say Madam Speaker, we cannot compare Kenya to India or to Japan. So, therefore Madam Speaker, I oppose that we remain the way we are with the National Assembly represented the way it is today.

Madam Speaker, secondly, clauses 18 and 19 of the Bill that seek to amend Articles 136 and 146 of the Constitution to increase the term of Presidency from the current five years to seven years Madam Speaker, this will encourage corruption because if the President knows he is going for only one term, he will be corrupt and he must make that time for him to make a lot of money. Therefore, Madam Speaker, I oppose that amendment to those Articles because Madam Speaker, this will promote a lot of corruption in our country.

Madam Speaker, my third point is the proposed amendment under clauses 23, 24 and 25 that are to amend Articles 179, 180, and 182 of the Constitution of Kenya to abolish the office of the Deputy Governor. Madam Speaker, there is no way this Bill has not shown us when the Governor passes on who is going to take the office in case somebody passes on or if the Governor passes on.

Madam Speaker, there is no way you can have an office where there is no deputy or assistant because you can get sick then your deputy Madam Speaker, will talk over. Secondly, Madam Speaker, when you propose and say the Governor will be appointing is Deputy from among the CECs Madam Speaker, this is taking us back to the era of Kanu whereby things were done because even the Governor himself will appoint can appoint even his brother or his wife if the Constitution allows and this Deputy Governor will be actually not working for the it was

people; he or she will be working for the interest of his boss who is the Governor. Madam Speaker, I oppose that.

Madam Speaker, the other point I have noticed in this draft Bill is when you say on the Amendment of Article 89 of the Constitution to reduce the number of constituencies from 290 to 47; Madam Speaker, that will make our people suffer because, for example, when we have only one member for example in Machakos County headquarter being Machakos, that means people from all the way from Kibauni, from Kalyambeu, from Masinga and from Yatta will be using money to come and see their leader. Madam Speaker, this cannot be applied in a developing country like our country in Kenya. So, Madam Speaker, I oppose.

Madam Speaker, amending Article 177 of the Constitution to scrap nomination for County Assemblies; Madam Speaker, this one is actually eroding the gains so far we have attained actually in the in the devolution and also Madam Speaker, in the Ekuru Aukot's Bill it is not clear we have seen on National Assembly 50/50 that is gender parity but when you come to County Assemblies there is there is nothing in the draft Bill showing us what is going to happen or the gender parity which is enshrined in our constitution which is two-thirds.

It is not well stipulated so I oppose the Bill because women in this country are not lesser nowadays. Some of the women actually they are other people Madam Speaker, bringing our children up. I was saying funerals, Madam Speaker, it is rather better if it is death a man should die and leave the woman.

*(Laughter)*

**Hon. Speaker:** That is discriminatory.

**Hon. Muendo:** Sorry, Madam Speaker. I am just saying that is my opinion because I have seen how women bring up the kids and I have seen how men bring up the kids. So, Madam Speaker, I have experience as a father and also I was brought up by single lady. So Madam Speaker, I oppose that clause.

Madam Speaker, the point of the Amendment of Article 201 of the Constitution to reduce the salary of State and public officers; Madam Speaker, corruption is the one which is eating and not the salaries. If Kimwarer dam was not even constructed and even before it started being consumed of a Ksh. 60 Billion; that can develop several Counties, Madam Speaker. When you reduce the salary, Madam Speaker, because I used to be a civil servant, you encourage corruption. What the Bill doesn't come out on is to tell us when you reduce this salary, how are we going to save this money and the same people whose salary you reduce are there still people working as civil servants.

So, Madam Speaker, I strongly oppose this Bill because even the Bill will you look at it from the face of it Madam Speaker, you can see the people living with disabilities; it is saying only six would be nominated to the National Assembly out of 40 million Kenyans. That is discriminating and it cannot be allowed because those are our sons and our brothers.

Madam Speaker, also when we come to the County Assemblies where we sit now and that is where we are, Madam Speaker; it is not even shown where the people with disabilities will be. There is no provision showing in the Bill that the persons with disabilities in the County Assemblies will be represented on what percentage.

Before I finish, Madam Speaker, I will also say that yes we are saying the ward reps or the MCAs they are close to the people; as far as Madam Speaker, we talk about that yes we are

but Madam Speaker, a Bill which doesn't give us clearly on the Ward Development Fund anchored on a percentage or the amount because the Bill says we will provide more funds to the County Governments, Madam Speaker. We want a Bill which is very clear; it will be this percentage and the word should be Ward Development Fund.

That one Madam Speaker, it leaves a lot to be desired when you come to that part. Madam Speaker, let me finish by saying that even the presentation here Madam Speaker, by Dr. Ekuru Aukot was that Members of this Assembly; let me congratulate the Machakos Assembly because it was not easy as he thought. In fact, he was sweating because the questions were relevant and he could not answer and express. It is not like the Uasin Gishu where they said yes without reading or somebody has read---

**Hon. Speaker:** Hon. Majority Leader, you are out of order; withdraw that.

*(Laughter)*

**Hon. Muendo:** Okay. Let me withdraw, Madam Speaker. I was just giving an example. Madam Speaker, let me say you have a very strong House and you have very intelligent Members of the House and with all that Madam Speaker, I oppose the draft Bill. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Majority Leader. Hon. Deputy Speaker Hon. Museku.

**Hon. Museku:** Thank you Madam Speaker for giving me this chance to contribute on this Bill. First of all, let me start by saying that I am in total agreement with the recommendations of the committee led by the able to Hon. Moffat Maitha and Hon. Jeremiah; the Joint Committee on the recommendations for this House not to approve this report this specific item.

*(Applause)*

Madam Speaker, I looked at that entire draft Bill which is presented here and going through that Bill, Madam Speaker, one of the things which I noted was that this Bill was going against the spirit of the Constitution of Kenya as amended in 2010.

*(Applause)*

Madam Speaker, if you look at the Constitution of Kenya 2010 as was envisaged by the people of this country, devolution was key in that Constitution, inclusion of people in the governance was key in that Constitution, representation of mwananchi at every level was key to that Constitution. When you go ahead and start reducing on the representation of the people in the various organs meant to serve the people, then you are obviously going against the general spirit of the Constitution as was envisaged by the people of Kenya when they were enacting it in the year 2010.

Madam Speaker, I talk about the other issue of the Presidential term; you put a Presidential term as one-time or seven year and the rest of the elective positions remain at five years. What does it mean? It simply means that when we start at point A on year one, after five

years we shall have elections for all the other elective positions. Then two years down the line, we shall have another election for the Presidency then three years down the line we shall have another election for the other posts.

This country will forever be in election mode and there will be no one time when you'll be able to say that you have got time to execute what you are supposed to execute. Will forever be in election mood, every time election and as you know, the last year of any term and the first year of the following term are normally lost in politics. We want to reduce on that and therefore when I see the Bill trying to introduce a one term of seven years and the rest remaining and five years will put this country forever in elective mode.

Madam Speaker, when I look at the Bill itself, there are two things which the Majority Leader has highlighted. The first one is on the two-third gender rule. When you delete the clause in the constitution tell me which allows for any gender which is not represented in a particular elective House to be nominated or to be specially elected to that position; you delete that and then you only leave 50/50 per cent at the National Assembly, that means that then all the other elective organ below the National Assembly will not have what the constitution has mandated as one third gender.

So you cannot be able to delete that and expect that you are going to be that by itself by deleting that clause and leaving it open makes the entire Bill unconstitutional based on the Constitution which we enacted in 2010.

Madam Speaker, on the issue of salaries and a lot of other items which have been raised in this Bill, it is important for Hon. Members, and for everyone to note that it is the problem is not inherent in salaries as given to civil servants in this country. Let me zero in on devolution *per se*; devolved units, the 47 County governments in this country, only get 15 per cent of the total National revenue. It is in that 15 per cent that all the major services including health, water and irrigation, labor, environment and roads have been devolved and are being worked on by that simple 15 per cent.

All the salaries of all MCAs, all the salaries of all people who work in County Assemblies are inclusive in that 15 per cent. What happens to the other 85 per cent?

(Applause)

Yet what is being highlighted everywhere is people to concentrate and say that there is plunder or there is wastage of funds in the 15 per cent and therefore you need to reduce the civic seats in that 15 per cent.

The problem with this country is how it deals with the bigger share of the 85 per cent. If we are able to reduce on the expenses and on the loses and on the corruption which is being exhibited and seen on the 85 per cent, and as the Bill suggests, increase entitlement to those people who are on the ground to 35 or 45 per cent, then this country will have found a solution.

Let us not focus our attention on.....we call it there is a normally a storm in a cup of tea. You look at a cup of tea and its boiling and you concentrate and you say there is quite a storm in this cup of tea; that is the 15 per cent. What is happening to the big *sufuria* of tea which is making the 85 per cent?

So, this Bill when it is looking at reducing on elective seats, I am opposing it because it needs to concentrate more even the 35 per cent it has given is not enough. We need at least 45 or 50 per cent of that revenue to be brought down to where the services are being rendered. So, Madam Speaker, with those few words which I have highlighted, I do oppose that Bill and with

all my heart and say that we need a better Bill than what this gentleman presented to us. Thank you, Madam Speaker.

*(Several Hon. Members sought the Hon. Speaker's attention)*

**Hon. Speaker:** I will give the opportunity to every Member who wants to contribute so my eyes are very wide open to every member who wants to contribute and I have just given it on the basis of whose hand first caught my eyes. Are we in agreement? Just be patient you will contribute. Hon. Ndawa.

**Hon. Ndawa:** Thank you, Madam Speaker. I want also to give my input on the matter before this House and before I say I approve or disapprove, I want to make some comments. Madam Speaker, comment No. 1 comparison is done two or three things; you cannot compare one single thing. If I am talking about this pen and I want to get the best pen, I have to compare this pen with another one. That is point No.1.

No. 2, Madam Speaker, when we are talking about this Dr. Aukot draft, Madam Speaker, I think we should be able to weigh the percentage of good things and percentage of bad things. We don't have to be quick to approve or dismiss the document without weighing both the bad things and good things.

Madam Speaker, the 2010 Constitution when we were passing it, members of this nation or the citizens of Kenya were told that 80 per cent of the Constitution was good and 20 per cent was oppressive bearing in mind that some percentage was not good the Kenyans gave it a clean Bill of health.

Madam Speaker, talking on the contents of the document it is evident that the country known as Kenya was divided into 47 counties. So, Madam Speaker, according to me and according to the people of Yatta, because I also attended the meeting at Yatta, when something has been divided into several pieces, it means now that that thing is no longer in existence. So what do I want to say? Kenya was divided into 47 pieces that is the 47 counties.

What the counties are getting is only 15 per cent. My question is; the 85 per cent balance develops which country because Kenya was divided into 47 counties? According to Dr. Aukot, I believe this gentleman is acting outmost in good faith to this nation when he is proposing that the allocation which is going to the counties should go up. Most of the departments have been devolved to the counties; it is only security which is in the national government and other few departments. Most of the departments are in the counties so I believe and I agree with Dr. Aukot that a big portion of the monies should go to the counties.

The other thing, Madam Speaker, that I want to say is this; Dr. Aukot is trying to strengthen the Senate to make it a Upper House with veto power. Madam Speaker, the way things are today, if the National Assembly wants to auction this nation, they can do it and go home free without anybody questioning them because whatever they pass---

**Hon. Speaker:** Point of information from Hon. Masesi.

**Hon. Masesi:** Yes, thank you, Madam Speaker. I just want to inform the Hon. Member that this Bill is purporting to give the Senate veto powers whereas Madam Speaker, it does not delete Article 95 which gives the same House powers to enact and legislate laws. Thank you.

**Hon. Speaker:** Hon. Ndawa, you have been informed accordingly and the chair is also informing you under Schedule Four of the Constitution on the sharing of functions; the national government as a total of 35 functions and the County Governments of a total of 14 functions. So when you say that the national government has only security and a few others, it is not right as per the Constitution. So, proceed on the basis of that information.

**Hon. Ndawa:** Thank you, Madam Speaker. I am well-advised and well-informed. So, what I was saying, of late we have been hearing and we have been reading and watching from the TVs of the national Assembly Members increasing their salaries, giving themselves House allowances and nobody.....the Senate does not have powers to quash the decision of the National Assembly. So I am agreeing with Dr. Aukot that we should have a body which has powers to approve or disapprove decisions made by the lower House.

Madam Speaker, the other issue that I would wish to say is that according to their allocation, the money that is left in the National Government, they give what we call National Government CDF allocations and most of the sub-counties get about Ksh. 100 million. That Ksh. 100 million is the one which is shared amongst the wards in that sub-County or in that constituency.

Madam Speaker, Dr. Aukot is proposing that the money should go directly to the wards and according to the documents when the money goes to the County's team means the wards will get our location from what I get.

Madam Speaker, when I was in standard two, my mathematics teacher was very clear and was trying to show us what is less than the other and what is greater than the other one. When we are sharing that allocation from the CDF like in Yatta sub-county, when the CDF get Ksh. 100 million, they share it among five so every ward gets about Ksh. 20 million. Dr. Aukot is trying to ensure that Matuu ward gets about Ksh. 100 million and above---

**Hon. Speaker:** Point of information from Hon. Hellen.

**Hon. (Ms.) Ndeti:** Thank you, Madam Speaker. Is the Hon. Member serious when he tells us that---

**Hon. Speaker:** Hon. Hellen, you are getting it wrong.

**Hon. (Ms.) Ndeti:** I just want to inform---

**Hon. Speaker:** Put it in a better way.

**Hon. (Ms.) Ndeti:** I am sorry, Madam Speaker. I want to inform the Member on the floor that first of all CDF is not in the Constitution. This Bill of Punguza Mizigo does not even give us details of how it is going to ensure that the Ksh. 100 million you are speaking about is going to be in the Constitution.

*(Applause)*

**Hon. Speaker:** Hon. Ndawa, are you also aware of a case pending in the supreme court of Kenya on the CDF?



**Hon. Ndawa:** Yes, Madam Speaker.

**Hon. Speaker:** Alright then; with that information proceed.

**Hon. Ndawa:** But as the matter is in court, it is happening that the CDF are getting money from the national government.

**Hon. Speaker:** Yes; the question of the constitutionality of the CDF is what is pending in the Supreme Court.

**Hon. Ndawa:** Yes, thank you, Madam Speaker. The other issue I would like to talk about is instilling discipline within the country. Madam Speaker, Dr. Aukot is trying his level best to ensure that we have discipline within the nation. When you are given a position you are supposed to do your work with what we call due diligence to ensure that all the resources are well-utilized and they are utilized for the intended task.

Madam Speaker, if we take for example, a state like Singapore, you go to the cells where people are locked and you will find them empty because they do not have corrupt people in that state. Madam Speaker, what Dr. Aukot is trying to do is ensure that those who are corrupt are dealt with accordingly because Madam Speaker, if we leave it the way it is, somebody will use county money, will use public money and when he or she is arrested, he will use the same loot to buy freedom.

**Hon. Speaker:** Point of information from Hon. King'ori.

**Hon. King'ori:** I want to inform the Member that we have laws on corruption and we are not less on laws so that when he is talking about good laws, we also know how Kenyans way of dealing with laws because we have good in dealing with corruption and theft which is also a nice part of it. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. King'ori. Hon. Ndawa and you need to start winding up your contribution because we have other members also.

**Hon. Ndawa:** As I prepare to wind up Madam Speaker, let it be known the issue of law and Constitution depends on the interpretation. It depends on the interpretation because one judge can jail you using the constitution and another judge can use the constitution and release you. So let us be very clear on this issue of Constitution and these Articles.

Madam Speaker, according to Yatta people because I cannot betray my people, I attended that meeting. According to the residents of Yatta who attended that meeting weighed the percentage of good and bad things and according to them, 70 percent was good and 30 percent was bad. So Yatta people said we are going to approve this Aukot draft so without betraying them, I also say I stand by Dr. Aukot draft. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Ndawa. Hon. Mueni.

**Hon. (Ms.) Mueni:** Thank you, Madam Speaker. I do not support the Bill. I am saying that Dr. Aukot was selling himself but not Punguza Mizigo. He was just making himself known in the country.

**Hon. Speaker:** Hon. Mueni, you are not being kind to the Dr. Aukot; he has done a job just comment on the Bill as it is.

**Hon. (Ms.) Mueni:** Yes, Madam Speaker. By saying that in every county we be having one woman and one man MP that is making us go back to the old regime of the country because I do not know whether the person who is in Masinga will know Mheshimiwa Munyaka in Machakos or the people who are in Masinga know the person who is coming from that place. So there are people in Machakos who do not know about the MPs and only know about the MCAs and Mr. Aukot is not for the MCAs but for the MPs. So, mine is to say that because he is making me not to have a job and me giving him a job.

*(Laughter)*

So, mine is to say that this thing we must refuse it and it is very clear Madam Speaker, you could have heard the report from the two committees. Mheshimiwa Ndawa I do not know where he belongs to because that is not the people.

*(Laughter)*

**Hon. Speaker:** Mheshimiwa Ndawa belongs to the County Assembly of Machakos. Hon. Mueni!

**Hon. (Ms.) Mueni:** Yes but Madam Speaker, you can understand what I am saying. He must know what the people are for; they are not for the Bill and that is what I can say. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Mueni. Hon. Dominic.

**Hon. Ndambuki:** Thank you, Hon. Speaker. Hon. Speaker, I stand to support the recommendations tabled before us by the joint committee and Madam Speaker, I would want to oppose the proposed Bill even though it gives some good points. However, Madam Speaker, as Members of County Assembly the proposed Bill does not explicitly explain to us the roles that MCAs will be doing more especially on the proposed ward kitty.

Hon. Speaker, again the issue of the one term seven year presidency does seem to encourage complacency and corruption on the holder of that seat, Madam Speaker, giving it that whoever will be holding that seat might say after all I will not be coming back as a President.

Ho. Speaker, again the proposed Bill seems to contradict itself; on one hand Hon. Speaker, it proposes an increment of the allocation to county governments from 15 per cent which we currently have to a minimum of 35 percent Madam Speaker, which is a plus to the county government. However, Madam Speaker, the Bill seems to reduce the powers of the county governments and seems to centralize the power on the Presidency. Madam Speaker, this

will be against the spirit of devolution that as a country we have been fighting for. Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you, Hon. Dominic. Hon. Constance; Hon. Minority Leader, I will come back to you because I had mentioned her name first. I mind protocol but because I mentioned her name first, let her go first before you. Hon. Constance Mbula.

**Hon. (Ms.) C. Nzioki:** Thank you, Madam Speaker. One I want to put this Bill down and I want to say it fell before it came into this House. I am even shocked Madam Speaker, one of us here is supporting the Bill without thinking what to do with his sisters and brothers in this House because when we support this Bill and we are sent home seriously.

*(Laughter)*

I mean what does he mean?

**Hon. Speaker:** Hon. Constance.

**Hon. (Ms.) C. Nzioki:** I think---

**Hon. Speaker:** Hon. Constance.

**Hon. (Ms.) C. Nzioki:** Yes, Madam Speaker.

**Hon. Speaker:** Are you opposing the Bill because it is sending you home?

**Hon. (Ms.) C. Nzioki:** No, Madam Speaker. I am only informing him that he has sisters and brothers in this House and they also need to feed like him because when we go home, you will be left sorry and so it is good to sympathize---

**Hon. Speaker:** You are saying the same thing in a different way.

**Hon. (Ms.) C. Nzioki:** Sorry Madam Speaker. My English is difficult also and---

**Hon. Speaker:** Proceed.

**Hon. (Ms.) C. Nzioki:** Thank you, Madam Speaker. Now I think Dr. Aukot has some personal interests in this. He may be pushing for something at the end of it. We all know he wanted to become a President at some stage and maybe he is looking for a loophole on how to come and this is the only way when people get to learn the same person is there he is going round talking his and that.

**Hon. Speaker:** Hon. Constance.

**Hon. (Ms.) C. Nzioki:** Yes Madam Speaker.

**Hon. Speaker:** The seat of the Presidency is there for every Kenyan citizen...

**Hon. (Ms.) C. Nzioki:** Yes, Madam Speaker...

**Hon. Speaker:** Including you and so it is not proper to cast aspersions on Dr. Aukot because of his past interest in the Presidency; he has that constitutional right to go for it. So, I would urge you to look at the report that we have on the table and then the Bill and then anything else about the person behind the Bill, please do not put it on the HANSARD of this House.

**Hon. (Ms.) C. Nzioki:** Thank you, Madam Speaker. Well-guided and I appreciate. Another problem is when he says people should be put into life sentence. It is okay when people commit murder or any other thing that is a way but he has not given an alternative like we could have a presidential guidance and release people.

Also when he says MCAs are to go home, he has no alternative on what to do with us and I would think the Bill is not very clear and to me I do not support it and I would wish this House to shoot it down because already the Joint committee has given us recommendations which are very clear and we should have finalized by now. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Constance Mbula. Hon. Minority Leader.

**Hon. Kamitu:** Thank you, very much Madam Speaker. Madam Speaker, my contribution towards this Bill the Punguza Mizigo (Amendment Bill) 2019 is that Madam Speaker, comparing and historically we are very much about 2010 Kenya Constitution where all the stakeholders were involved. Where all the members of the public were given time to voice their voices and that is what we call democracy.

Madam Speaker, going through the procedures that were carried out by Dr. Ekuro it is true that he came into this House, you received his letter and he was given a chance by this Hon. Assembly when he came here. We heard his sentiments and justifications about Punguza Mizigo (Amendment Bill) 2019 but having said that Madam Speaker, Hon. Members are very much aware that...as I said comparing the 2010 Kenya Constitution where members of the public were given chance to air their views and as Kenyans and as elected Members we are supposed to present or to represent the voices of Kenyans.

As Hon. Alex Kamitu of Tala Ward and in relation to the report that members of Matungulu and members of Tala ward gave out their sentiments and they gave out very negative sentiments towards Punguza Mizigo (Amendment Bill) 2019 because for one they were not involved and if you check page 20 Matungulu sub-county No. 6 'members of the public retaliated that the author of the Bill should have done proper public participation to get views from the grassroots before drafting the Bill.'

So who will be Hon. Kamitu if he is not going to listen to the members of Matungulu? Going through this report, we have got eight sub-counties in Machakos County and out of the eight sub counties seven of them did not agree to this draft Bill.

*(Applause)*

So who are we to go against the voices of the members of the public? So I strongly stand here to oppose this Amendment Bill and say we should go by the voice of Kenyans.

Madam Speaker, looking again at the committee observations on page 23, No. 1 and No. 2. The committee observed the following; one, currently there is no national legislation providing for consideration on the amendment of the Constitution through proper initiative pursuant to Article 257---

**Hon. Speaker:** Through popular initiative.

**Hon. Kamitu:** Yes.

**Hon. Speaker:** Not proper.

**Hon. Kamitu:** I mean through popular initiative. So anything which is not popular what does it say, Madam Speaker? It says that the voice of Kenyans is against anything that is not popular to the citizens. What does it indicate? It is not popular so it should be thrown out, Madam Speaker.

*(Applause)*

Again number two, County Assemblies cannot make further amendments to the Bill as submitted; then what are we saying? The whole Assembly is saying we throw this Amendment Bill out. Thank you, Madam Speaker.

*(Applause)*

**Hon. Speaker:** Thank you, Hon. Minority Leader. Hon. Kisini?

**Hon. Kisini:** Thank you, Madam Speaker. I first want to thank the two chairmen and the two committees for bringing such a noble report. I also want to thank the people of Machakos more especially the eight sub-counties for their views and we found that they are really highlighted and they knew what they were presenting. Madam Speaker, before I continue, I want you to guide me on this. I saw Dr. Ekuru on the TV last night---

**Hon. Speaker:** I did not see him, Hon. Kisini.

**Hon. Kisini:** One of the things---

*(Laughter)*

**Hon. Speaker:** Hon. Kisini, you asked me to guide so listen to my guidance. I did not see Dr. Ekuru on TV; I did not even know what he said but I know what is on the Table of this House. So please address what is on the Table of this House and Hon. Members, please do not repeat what another Member has said because many members want to contribute so they also go. You are making history as County Assembly addressing a proposed constitutional amendment.

Some day to come maybe you will want to get the HANSARD and look at what your contribution on this historical moment was. So save time for the other members. Just say a new point and you do not need to repeat what has already been said and the opening remarks and the

comments and the examples, please leave them a side so that we can have every Member who wants to contribute do so. So, Hon. Kisini, please proceed on the basis of the guidance.

**Hon. Kisini:** Thank you, Madam Speaker. I will stick to your advice it is only that I did not like one part but I will leave that line.

**Hon. Speaker:** Which line?

**Hon. Kisini:** I also want to say---

**Hon. Speaker:** Hon. Kisini...

**Hon. Kisini:** I also want to oppose---

**Hon. Speaker:** Hon. Kisini, have you been watching Malema in the South African parliament where he is told to withdraw and he withdraws and then says the same thing he withdrew; please do not go that way.

**Hon. Kisini:** I withdraw, Madam Speaker.

**Hon. Speaker:** So when you withdraw do not mention it; let us proceed.

**Hon. Kisini:** I totally oppose this Bill because it lacked substance. It did not address many of the things and I have said I do not want to do repetitions that for example we do not need to have a Governor without a Deputy; we do not want to do away with nominated members because that salary is going to develop. I say no let them remain; I do not want to say we can make savings by reducing the salaries of the people who work in the county government or government workers and so forth, Madam Speaker.

All I can say, because this gentleman did sweat a lot with a small window, is whereby he touched on corruption although he did not give it well like the Controller (??) trying to give some powers to the Auditor General through the DPP and so forth but he did not elaborate it very well. So Madam Speaker, I totally oppose the Bill. Thank you.

**Hon. Speaker:** Thank you, Hon. Kisini for being brief and to the point. Hon. Betty Nzioki.

**Hon. (Ms.) B. Nzioki:** Thank you, Madam Speaker. Madam Speaker, I stand to oppose this Bill and I want to speak the voice of my people whom I represent. Madam Speaker, during the public participation forum that we held at Masii, Madam Speaker, my people that I represent had an issue with.....let us go to page 21 where there is Mwala Sub-County. On the issue of over-representation; Members of the public objected to the proposed amendment saying that the Bill does not embrace devolution because the power will be taken away from the people if the representatives are reduced. The public felt that---

**Hon. Speaker:** Hon. Betty.

**Hon. (Ms.) B. Nzioki:** Yes, Madam Speaker.

**Hon. Speaker:** Please summarize.

**Hon. (Ms.) B. Nzioki:** Yes, Madam Speaker. So in that point Madam Speaker, my people were complaining that even now for example if we speak of our Member of Parliament our Hon. Member some of the people normally complain that they do not reach him. What if that, for example, in Machakos County, we will have two representatives, a woman and a man, it will be hard for them to be able to reach the people?

Madam Speaker, I also want to go to the recommendations page 24 on No. 12. They were complaining of the public participation. Masii people, my ward said they were not involved in one way or the other in the Bill amendments. So Madam Speaker, as the voice of my people whom I represent, I stand on this floor to oppose the Bill because even they were saying that they feel women are being discriminated of which it is not.

Okay, it has weight in one way or another but completely they said that they do not want to hear more about Punguza Mizigo. They need anything that is touching their development and which is coming directly to them without killing devolution. Thank you.

**Hon. Speaker:** Thank you, Hon. Betty. Hon. Masesi.

**Hon. Masesi:** Thank you, Madam Speaker. Madam Speaker, I am very happy for giving me this chance to air my input. Madam Speaker, I stand to support the resolutions of the committee Madam Speaker, which I am a member that Madam Speaker, this Bill fails to have the test of a good Bill. Madam Speaker, this is a Bill which requires not a single amendment that is Madam Speaker, on the same case it is not a single question. Again, Madam Speaker, if I remember very well, in 2017 we had a similar Bill which was brought about by the CORD coalition Madam Speaker, on the Okoa Kenya Bill and Madam Speaker, this Bill was subjected to signature verification and it failed to pass through that test.

Madam Speaker, again any changes to do with changes in the constitution, I want to believe it must be people-driven. It must take into account all the input from all Kenyans of all walks of life. Madam Speaker, you remember very well in 2010 how public participation was done for that constitution. Madam Speaker, this Bill failed to touch on the concerns by the many Kenyans in terms of expenditure. Madam Speaker, I failed to see anywhere in the Bill where Dr. Aukot talked of the debt of Ksh. 6 trillion.

Madam Speaker, I was imagining I would see somewhere where the Bill talks of having placed some mechanisms to have the foreign borrowing powers of the President or the executive to have to seek some approval from the Parliament which could curb this ballooning debt by our country.

Again I failed to see anywhere where the Bill talked of uncollected revenue Madam Speaker. As a country we are losing a lot of it and if it is anything to do with the Punguza Mizigo, we could have looked at those loopholes.

Madam Speaker, deleting Article 100(a) and 177(b) Madam Speaker, which promotes women representatives in both levels that is in the Senate and the County Assemblies and Madam Speaker, no mechanisms are given to realize the same two-third gender in the county and the senate Madam Speaker, which is too unfair. Kindly Madam Speaker, you know we have 97 women in parliament and with this Bill if it goes through Madam Speaker, we will not get

anything more than 50 women, Madam Speaker, in the parliament. Madam Speaker, I stand to oppose fully Madam Speaker that amendment.

Abolishing the 290 constituencies and replacing with 47 constituencies that are made by the counties, again we will go to the situation where there was amalgamation of larger tribes and clans which invoked Kenyans to draft the 2010 Constitution which includes these constituencies.

Again I fail to understand how Senate will be given veto powers bearing in mind that Senators and Members of Parliament will be elected from the same constituencies and by the same people. Madam Speaker, the criteria on how to give someone elected by the same person some veto powers fails to come out very clear.

Madam Speaker, this Bill again gives the IEBC some powers to limit the wards. If this Bill passes, it will kill the aim of devolution for my fear is that Madam Speaker, IEBC will reduce the number of wards. If you look at a county like Nairobi having two MPs with 85 wards; there will be no justification to have two MP's with 85 MCAs. So, I do not understand it.

Lastly Madam Speaker, I do not see how we will do away with the position of the Deputy Governor and live the one for the Deputy President. Madam Speaker we witnessed the demise of Nyeri Governor where his Deputy took the office. Madam Speaker, if this Bill sees the day of the light, the demise of the Governor will give us---

**Hon. Speaker:** The light of the day not the day of the light.

**Hon. Masesi:** The light of the day, Madam Speaker.

*(Laughter)*

Madam Speaker, if this Bill passes, in fact, it is Ongeza Mizigo because we will have to do elections whereby the current position of the Deputy Governor taking over is without any expense. So, this Bill seeks to solve an issue that Kenyans have been crying about; the issue of the ballooning wage Bill but the contents on the same causes more harm than good. Thank you, Madam, Speaker.

**Hon. Speaker:** Thank you very much, Hon. Cosmus Masesi. Hon. Geoffrey Kamulu.

**Hon. Kamulu:** Thank you, Madam Speaker. I was just thinking of how life could be if we could not have believed in God. In fact, people would be very careless but we have been given speed governor by the belief that everyone wants to go to heaven. So, Madam Speaker, these seven years of Presidency, if we have a careless President who does not care and who does not have speed governors, the people of Kenya will suffer for seven years.

So, I do not support that. The current system five years we have a choice as people of Kenya, if the person manages well the nation we can decide to choose him again but if he is worse we have a freedom to send him home, we will have lesser pain within the five years. So, I disagree with the seven years.

This carving of salaries, Dr. Aukot thought of the person who is earning the salary but he forgot that this salary is not for the earner there are and dependents; it is used in school fees, those earning salaries also employ others who pay school fees so if we adopt this system, actually we will be exposing Kenyans to suffering to poverty because this salary which is used to



pay school fees, this salary which is even used to employ casuals at home actually they will be sent home.

Reduction of Constituencies will also affect employment. We are all saying we create employment opportunities. If now we reduce it to 47 what about the rest, the people who were employed in the positions where they were working under the MPs and all that. In fact, there would be a crisis in the Nation if we reduce this number.

However, Madam Speaker, everything has pros and cons and we have been given a solution by the committee that actually we should do away with this Bill because we have not been given, as County Assemblies, an opportunity to make amendments; that is on page 24 No. 2 where the committee is giving recommendations.

So, those who feel some of us may we can say yes or no, we cannot but if we could have been given an opportunity to make panel beating on this Bill Madam Speaker, we can make recommendations and better it and proceed with it but we are only limited to acceptance or rejection. So, the cons here are more so I stand as Kathiani people to reject just the way we did it because we do not have an opportunity to make amendments. Thank you, Madam Speaker.

*(Applause)*

**Hon. Speaker:** Thank you, Hon. Kamulu. Hon. Angela Munyasya.

**Hon. (Ms.) Munyasya:** Thank you, Madam Speaker. I stand to oppose the Bill and more so because of the matters pertaining to the 1/3 gender representation. Madam Speaker, we have seen in the House even in the National Assembly, matters addressed by women concerning women that, only women can understand and present them and discuss them with a public women electorates. For example, Madam Speaker, the other day we had here a motion brought by one of our lady leaders concerning breastfeeding for mothers.

Madam Speaker, such issues and others pertaining to women-related matters that cannot be addressed by men will be left unattended and live alone women even matters pertaining to persons with disabilities who are represented here through nomination. Madam Speaker, I oppose the Bill because some of these issues are very intricate and they touch on our children and especially the girl-child. When we talk of sanitary towels, when we talk of rape issues, when we talk of violence towards women, only women are able to articulate such issues better than the way men would. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Munyasya. Hon. Alice.

**Hon. (Ms.) Nzioki:** Asante sana Bi. Spika. Bi. Spika kama ungenipa ruhusa ningesema Daktari Aukot aliongeza mzigo sio kupunguza sababu. Bi. Spika kumbuka kwamba miaka ya themanini ilikua ni lazima mtu atumie kama siku mbili kuja Machakos ili kumwona Mkuu wa wilaya ya Machakos lakini sasa ugatuzi ulianza kutoka serikali kuu na mtu anatembea hata kama hauna nauli ya kuja Machakos unataembea karibu na unapeleka mahitaji yako na unatumikiwa.

Bi. Spika, ukienda kama katika wodi, kila wakati mwananchi ana malalamiko kwamba viongozi hawaonekani, kiongozi anatembea mchana, usiku, mwezi mzima na ajafikia sehemu yote ye wodi yake. Sasa nataka uone Bi. Spika, katika Kaunti tupate viongozo wawili, mwanaume na mwanamke na mama sehemu ya mwisho tuseme ya Machakos, wodi ya Ndithini,

kutoka huko aje kumtafta kiongozi Machakos; itakua aje? Nikuongeza mzigo au ni kupunguza? Mimi naungana na wenzangu katika hili bunge kuibwaga kabisa maono ya Daktari Aukot.

*(Applause)*

Tena Bi. Spika, ukisaidia mwanamke mmoja, umesaidia nchi yote. Angeangalia kama alikua anajali akina mama nilimsikiliza wakati alikua akihojiwa hapa na bunge letu na alisema kwamba maono ambayo ameleta ya ugeuzi wa katiba haku guza mama lakini ukisikiza, hakuna mahali ameeka kipengele cha kusema kwamba uongozi iwe ni lazima.

Bi. Spika angalia pia aliacha wazi idadi ya wodi zetu; hakujali zipunguzwe au ziongezwe. Yeye haja yake ni kusema akileta neno Punguza Mizigo sababu ya shida ambazo tunazo Kenya, kila mtu atasikia kwamba ameleta mambo ya dhamana. Lakini ukiangalia ndani kabisa unakuta anaongeza mzigo.

Mimi nasema kama ingewezekana, idadi ya viongozi ambao tanao hawajatosha inapaswa waongezwe na shida ya Kenya sio shida ya viongozi, ni shida ya kutowajibika. Viongozi wakichaguliwa wengi hawawajibiki. Kwa hivyo kama viongozi pia tuwajibike na ufisadi umekidhiri mizizi katika nchi yetu. Tupunguze ufisadi na hata viongozi wakiongezwa utakuta Kenya yetu inaweza kuzalisha pesa ambazo zinaweza wafikia na zifikie wananchi wetu. Asante Bi. Spika.

**Hon. Speaker:** Asante Mheshimiwa Alice. Hon. Johana.

**Hon. Munyao:** Thank you, Madam Speaker. I stand to support the report of the Joint committee rejecting the Bill by Dr. Ekuru Aukot. Madam Speaker, the author of that Bill, when he was invited to this Assembly and considering that Kenya is a multi-party country was unable to answer or to respond to the issue of the nomination of the six persons which were represent special interest groups because it is not only one party which is doing the nominations; we have a multiple of parties and therefore, the mode of nominating and the nominating authority to such positions was not very clear or was not clear at all.

Madam Speaker, again I stand to say that, I would be the first person to wish Kenya to be a corruption free Country and therefore as a member of one of the committee's which was generating this report, we saw there were some areas which were very good to our people like and ensuring that Kenya becomes a corruption-free country, making Senate an Upper House and also increasing the equitable share to 35 percent but it is so unfortunate that Dr. Ekuru Aukot's efforts to climb a tree from the top will go unrewarded.

*(Laughter)*

So, Madam Speaker, I wish to support this report which highly rejects the Bill by Dr. Ekuru Aukot. Thank you, Madam Speaker.

*(Applause)*

**Hon. Speaker:** Thank you, Hon Johana. Hon. King'ori.

**Hon. King'ori:** Thank you, Madam Speaker. I also stand to support the report weight that recommends that we should not have Punguza Mizigo. For one, the great Constitution of 2010 which stipulates very well that the powers of the people must be respected under Article 2 and also Article 257 has not even been established to cater for the adaption of the Bill itself.

So, Madam Speaker, it is quite wise and very good to say this, that we need a constitution yes, amendment, when? It is not now; time is not yet because it is only nine years we have this constitution. We have not even engaged more of it and we enjoy the good and the will of the people of Kenya which was twice rejected before the Bomas Draft and other drafts were rejected by Kenyans for them to come with a good idea which we saw it better in 2010 and the essence of 2010 was that devolution is key to the people of Kenya and the Aukot Bill is killing the same.

By what? If the Nairobi County will get two representatives and also Lamu get two representatives, it means that 70,000 of the residents of Lamu will be over represented considering the Ksh. 6 million in Nairobi which will also need two people. Who will represent around 3 million which is not in order.

Madam Speaker, it is also good to note that Dr. Aukot had done a very good job to some extent. When it comes to speaking on 35 per cent of the funds to be devolved to the County but it did not give also good reasons of giving that 35 per cent. Yes, it is good to us and the community but without elaborating more, it gives changes of corruption on the Governors of this Country because they are given an blank cheque on that money. Yes we are told they will be giving a Ksh. 100 million not a percentage of that money is defined in the Constitution which is very wrong Madam Speaker.

*(Applause)*

Also he did not even at all try to delete the clauses that will always go to court like Article 174(i) of the current Constitution which talks about separation of powers. That means even though we are given money for the Wards, the MCAs have nowhere to be seen; the only person who will be working and enjoying the fruits of the Ksh. 100 million which we are giving to the Assembly is the Governor. Is it to mean we are corrupt? That is why Dr. Aukot yesterday on a National Television said all MCAs have been corrupted. He should be condemned to the letter; that is not the way a leader should work.

*(Applause)*

**Hon. Speaker:** Hon. King'ori, order! I had outlawed or said we do not go to that point. Personally, I did not see it. You cannot respond to that now but after this you can go to the press out and respond. Are we in agreement?

**Hon. Members:** Yes.

**Hon. Speaker:** So, let us observe order in the House.

**Hon. King'ori:** Thank you Madam Speaker for your advice. I take it rightly and correctly. Let me now talk about the Bill again; it is also hurting that you know that Presidential decree will not happen to our institutions which are supposed to be a corrective institution and not a punishing institution according to the spirit of the 2010 Constitution.

It is wise to understand that, sometimes back we were not having any bail for robbery incidents and people who are accused of death but for the spirit of being known that the institution of jailing people reforms, that spirit said that we should have bonds and for the same spirit we should also have pardons for those people who have reformed but the Bill itself proposes that the President should not even pardon the accused which is wrong.

Madam Speaker, I have so many things to talk about but because of time let me stop there and as a representative, the people of Muthwani have said no to this Amendment Bill. Thank you, Madam Speaker.

*(Applause)*

**Hon. Speaker:** Hon. Members, I call upon the Mover of the Motion, Hon. Maitha to reply.

**Hon. Maitha:** Madam Speaker, I first of all want to thank the two committees for the work which they did; we did not have a lot of time but they did their best. I also want to thank the Secretariat for producing such a good document. Thirdly, Madam Speaker, I want to thank the Hon. Members for their contribution in talking about this Punguza Mizigo Bill. Madam Speaker, I only have two things to add on what the Hon. Member said; if there was an opportunity to amend the clauses in this Punguza Mizigo Bill, we could say that it was a good Bill but because no way we can amend anything, even those things you are talking about are bad because they cannot be put anywhere in this Bill.

Secondly, Madam Speaker, if a President is given seven years, there will be a lot of chaos in this country because the day he enters the office, because the time is limited to seven years, those who would wish to be the next President will start campaigning and you will find the current President who is in office will not do much because of the chaos in the Country for people wanting to be elected.

Again, Madam Speaker, for the author to say there should be only two Members from the National Assembly from every County that is a disaster to devolution. Just imagine in Machakos County, two Members of the National Assembly; one coming from Mavoko for example and one coming from Machakos. How will my people in Matungulu sub-county reach these two Hon. Members?

Madam Speaker, it is surprising that one County to say they can do without representation from the National Assembly because I do not see how they will be represented in the National Assembly. Possibly, I am not sure what transpired in that sub-County for all the people to say they do not want to have a Member of the National Assembly.

Madam Speaker, with those few remarks the committee says we do our way with this Bill and it is my earnest request for this Hon. Members to agree with the committee in that in this Punguza Mizigo Bill must be done away with. Thank you, Madam Speaker.

*(Applause)*

**Hon. Speaker:** Thank you, Hon. Maitha.

*(Question put and agreed to)*

*(Applause)*

Hon. Members, just a brief comment on the resolution that you have just passed. I want to commend you on the very mature way you have debated on this Bill.

*(Applause)*

I also want to commend you on being in very knowledgeable on the matters that are in the Bill.

*(Applause)*

Personally, as I was seated here and listening to the debate and it is not because you are the Assembly that I chair, it is because that is the fact. I was amazed at the in-depth interrogation that you have done on that Bill in relation to the matters that it is addressing.

The second point I want to comment is on the allegations that some Members have tried to address particularly which attributed to utterances by Dr. Ekuru Aukot last night's television broadcast. It is very unfortunate that some allegations of the nature would come to cast as aspersions on Hon. Members of County Assemblies, least of all, the County Assembly of Machakos.

*(Applause)*

The way I have observed you and the way you have prosecuted this Bill, I am without any doubt that it was because you saw what the Bill contained and you weighed the interests of the people you represent and not because you were bribed. It is very unfortunate that allegations of bribery would come out of a person of the stature of the promoter of the Bill because County Assemblies, one or two have rejected the Bill and now you come on the list of the Counties that have rejected the Bill for good reasons.

*(Applause)*

Hon. Members, given the opportunity as the leader of this Assembly, I will issue the necessary Statement with regard to the utterances that were publicized last night.

*(Applause)*

I just want to urge you Hon. Members to continue discharging your duties honourably and true to the constitution and true to the oath of office that you took all in the service to your people and no other consideration whatsoever and I thank you for that.

*(Applause)*

Hon. Members, aside of that Order, I am reminded by the Table Clerk that on Order No. 8, 9 and 10 the Bills that we addressed earlier, the ones that went through the first reading are committed to the relevant sectoral committees as follows under Order No. 8:

Hon. Members, let me repeat, under Order No. 8 on the Order Paper, the Bill that is the Machakos County Village Polytechnic Bill No.3 of 2019, is committed to the committee on education and social welfare.

The Bill that is on Order 9, that is the Machakos County Health Services Bill No. 4 of 2019, is committed to the Committee on Health and Emergency Services.

Under Order No. 10 of the Order Paper, the Bill that is Machakos County Co-operative Enterprise Development Fund Bill, Bill No. 5 of 2019, is committed to the Committee on Agriculture. The sectoral committees know what they are supposed to do with those Bills.

### **ADJOURNMENT**

With this Hon. Members, we have come to the end of this special sitting of today, so the sitting of the Assembly is adjourned and it is going to resume, that is the sittings of the House, will resume on the 5th day of November, 2019 at 10.00 a.m. Thank you.

The House rose at 2.04 p.m.